

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

*** These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.**

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the

memorandum and articles of association where the applicant stock exchange is an incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission

to sever his connection with such business :

⁸**[Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) o[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule,

subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act,

1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any

partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the

general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the ²²[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the

majority shall be deemed to represent the findings of such authority and, in the event of an equality of votes, the chairman or senior member shall have a casting vote;

(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;

(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;

(b) changes in the composition of the governing body;

(c) any new sub-committees set up and changes in the composition of existing ones;

²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

²³ Ibid.

(d) admissions, re-admissions, deaths or resignations of members;

(e) disciplinary action against members;

(f) arbitration of disputes (nature and number) between members and non-members;

(g) defaults;

(h) action taken to combat any emergency in trade;

(i) securities listed and de-listed; and

(j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

(i) the official rates for the securities enlisted thereon;

(ii) the number of shares delivered through the clearing house;

(iii) the making-up prices;

(iv) the clearing house programmes;

(v) the number of securities listed and de-listed during the previous three months;

(vi) the number of securities brought on or removed from the forward list during the previous three months; and

(vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

(a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.

(d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.

(e) A statement showing—

(i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),

(ii) dividends or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements with or between :—

(i) vendors and/or promoters,

(ii) underwriters and sub-underwriters,

(iii) brokers and sub-brokers.

(g) Certified copies of agreements with—

(i) managing agents and secretaries and treasurers,

(ii) selling agents,

(iii) managing directors and technical directors,

(iv) general manager, sales manager, manager or secretary.

(h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.

(j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if

any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and

allotted to public in terms of an offer document if the post issue capital of the company calculated at offer price is more than four thousand crore rupees: Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of at least twenty five per cent by increasing its public shareholding to the extent of at least five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event

of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of

the Controller of Estate Duty or similar other document has been duly exhibited to and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the

company along with particulars as to the number of shares or debentures held by, and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in

accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996,

w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid*. Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any

particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press

so that it will appear on the morning after the letters of allotment have been posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the

declaration or recommendation of a return or the issue or right or bonus units or any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock

exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply

to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

- (2) If the securities is delisted under clause (1),
- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:
- Provided** that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....

.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition

dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts

42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.
12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

18. Are any trade or commercial interest represented on your governing body ? If so, give details of interests represented.
19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.
20. Are there any Government representatives on your governing body ? If so, furnish their names.
21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.
22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.
23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.
25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.
26. Give details of business hours for each type of contract.
27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.
28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.
29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.
30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.
31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?
32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.
33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?
34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.
35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.
36. How do you fix, alter or postpone the dates of settlement ?
37. How do you determine and declare making-up prices ?
38. Do you have any arrangements for making or recording of bargains ?
39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) ‘havalas’ and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of ‘bullsqueezes’ and ; ‘bearraids’ and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013. Short title and
commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
5. Withdrawal of recognition
6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges.
 - 12A. Power to issue directions
13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (*ie*) of clause (*h*) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
19. Stock exchanges other than recognised stock exchanges prohibited
20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
22. Right of appeal against refusal of stock exchanges to list securities of public companies
- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
- 22B. Procedure and powers of Securities Appellate Tribunal
- 22C. Right to legal representation
- 22D. Limitation
- 22E. Civil court not to have jurisdiction

22F. Appeal to Supreme Court

PENALTIES AND PROCEDURE

23. Penalties

23A. Penalty for failure to furnish information, return, etc.

23B. Penalty for failure by any person to enter into an agreement with clients

23C. Penalty for failure to redress investors' grievances

23D. Penalty for failure to segregate securities or moneys of client or clients

23E. Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds

23F. Penalty for excess dematerialisation or delivery of unlisted securities

23G. Penalty for failure to furnish periodical returns, etc.

23H. Penalty for contravention where no separate penalty has been provided

23-I. Power to adjudicate

23J. Factors to be taken into account by adjudicating officer

23JA. Settlement of administrative and civil proceedings

23JB. Recovery of amounts

23K. Crediting sums realised by way of penalties to Consolidated Fund of India

23L. Appeal to Securities Appellate Tribunal

23M. Offences

23N. Composition of certain offences

23-O. Power to grant immunity

24. Offences by companies

25. Certain offences to be cognizable

26. Cognizance of offences by courts

26A. Establishment of Special Courts

26B. Offences triable by Special Courts

26C. Appeal and revision

26D. Application of Code to proceedings before Special Court

26E. Transitional Provisions

MISCELLANEOUS

27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(*t*) the regulation of dealings by members for their own account;

(*u*) the separation of the functions of jobbers and brokers;

(*v*) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(*w*) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(*b*) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(*i*) fine,

(*ii*) expulsion from membership,

(*iii*) suspension from membership for a specified period,

(*iv*) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

⁷¹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of documents ;

(c) receiving evidence on affidavits ;

(d) issuing commissions for the examination of witnesses or documents ;

(e) reviewing its decisions ;

(f) dismissing an application for default or deciding it *ex parte* ;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and

(h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of

⁸⁵ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

88[Appeal to Supreme Court.

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a)** attachment and sale of the person's movable property;
- (b)** attachment of the person's bank accounts;
- (c)** attachment and sale of the person's immovable property;
- (d)** arrest of the person and his detention in prison;

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties, and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷[Offences.

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
8 Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(ba) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(ha) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³[(ia) **calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;**]

⁴[(ib) **calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[**or sub-section (2A)**], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ **Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.**

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002 2002

⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt-* If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;
(b) changes in the composition of the governing body;
(c) any new sub-committees set up and changes in the composition of existing ones;
²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

²³ Ibid.

(d) admissions, re-admissions, deaths or resignations of members;
(e) disciplinary action against members;
(f) arbitration of disputes (nature and number) between members and non-members;
(g) defaults;
(h) action taken to combat any emergency in trade;
(i) securities listed and de-listed; and
(j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

(i) the official rates for the securities enlisted thereon;
(ii) the number of shares delivered through the clearing house;
(iii) the making-up prices;
(iv) the clearing house programmes;
(v) the number of securities listed and de-listed during the previous three months;
(vi) the number of securities brought on or removed from the forward list during the previous three months; and
(vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
 - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
 - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
 - (i) vendors and/or promoters,
 - (ii) underwriters and sub-underwriters,
 - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
 - (i) managing agents and secretaries and treasurers,
 - (ii) selling agents,
 - (iii) managing directors and technical directors,
 - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....
.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition

dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts

42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws Short title and
(Amendment) Ordinance, 2013. commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
5. Withdrawal of recognition
6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges.
 - 12A. Power to issue directions
13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
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20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
22. Right of appeal against refusal of stock exchanges to list securities of public companies
- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
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- 22E. Civil court not to have jurisdiction

22F. Appeal to Supreme Court

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23A. Penalty for failure to furnish information, return, etc.

23B. Penalty for failure by any person to enter into an agreement with clients

23C. Penalty for failure to redress investors' grievances

23D. Penalty for failure to segregate securities or moneys of client or clients

23E. Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds

23F. Penalty for excess dematerialisation or delivery of unlisted securities

23G. Penalty for failure to furnish periodical returns, etc.

23H. Penalty for contravention where no separate penalty has been provided

23-I. Power to adjudicate

23J. Factors to be taken into account by adjudicating officer

23JA. Settlement of administrative and civil proceedings

23JB. Recovery of amounts

23K. Crediting sums realised by way of penalties to Consolidated Fund of India

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23N. Composition of certain offences

23-O. Power to grant immunity

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26E. Transitional Provisions

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27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(t) the regulation of dealings by members for their own account;

(u) the separation of the functions of jobbers and brokers;

(v) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(w) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(a) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(b) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(i) fine,

(ii) expulsion from membership,

(iii) suspension from membership for a specified period,

(iv) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

⁷¹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) reviewing its decisions ;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

88[Appeal to Supreme Court.

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;**
- (b) attachment of the person's bank accounts;**
- (c) attachment and sale of the person's immovable property;**
- (d) arrest of the person and his detention in prison;**

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f.

20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶[***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷**[Offences.**

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³[(ia) **calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;**]

⁴[(ib) **calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[or sub-section (2A)], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁴ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁵ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002
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⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

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Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt*- If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;

(b) changes in the composition of the governing body;

(c) any new sub-committees set up and changes in the composition of existing ones;

²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

²³ Ibid.

(d) admissions, re-admissions, deaths or resignations of members;

(e) disciplinary action against members;

(f) arbitration of disputes (nature and number) between members and non-members;

(g) defaults;

(h) action taken to combat any emergency in trade;

(i) securities listed and de-listed; and

(j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

(i) the official rates for the securities enlisted thereon;

(ii) the number of shares delivered through the clearing house;

(iii) the making-up prices;

(iv) the clearing house programmes;

(v) the number of securities listed and de-listed during the previous three months;

(vi) the number of securities brought on or removed from the forward list during the previous three months; and

(vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
 - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
 - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
 - (i) vendors and/or promoters,
 - (ii) underwriters and sub-underwriters,
 - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
 - (i) managing agents and secretaries and treasurers,
 - (ii) selling agents,
 - (iii) managing directors and technical directors,
 - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....
.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts
42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT)

ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013. Short title and
commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
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6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges.
 - 12A. Power to issue directions
13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
19. Stock exchanges other than recognised stock exchanges prohibited
20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
22. Right of appeal against refusal of stock exchanges to list securities of public companies
- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
- 22B. Procedure and powers of Securities Appellate Tribunal
- 22C. Right to legal representation
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- 22E. Civil court not to have jurisdiction

22F. Appeal to Supreme Court

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23A. Penalty for failure to furnish information, return, etc.

23B. Penalty for failure by any person to enter into an agreement with clients

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23D. Penalty for failure to segregate securities or moneys of client or clients

23E. Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds

23F. Penalty for excess dematerialisation or delivery of unlisted securities

23G. Penalty for failure to furnish periodical returns, etc.

23H. Penalty for contravention where no separate penalty has been provided

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23JA. Settlement of administrative and civil proceedings

23JB. Recovery of amounts

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23N. Composition of certain offences

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27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(t) the regulation of dealings by members for their own account;

(u) the separation of the functions of jobbers and brokers;

(v) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(w) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(a) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(b) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(i) fine,

(ii) expulsion from membership,

(iii) suspension from membership for a specified period,

(iv) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

71 Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) reviewing its decisions ;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

88[Appeal to Supreme Court.

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a)** attachment and sale of the person's movable property;
- (b)** attachment of the person's bank accounts;
- (c)** attachment and sale of the person's immovable property;
- (d)** arrest of the person and his detention in prison;

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties, and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶[***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

SECTIONS

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷**[Offences.**

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
8 Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

**9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]
Composition of certain offences.**

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³[(ia) **calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;**]

⁴[(ib) **calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[or sub-section (2A)], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁴ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁵ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002
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⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

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Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt*- If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

- (a) changes in rules and bye-laws, if any;
- (b) changes in the composition of the governing body;
- (c) any new sub-committees set up and changes in the composition of existing ones;
- ²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996
- ²³ Ibid.
- (d) admissions, re-admissions, deaths or resignations of members;
- (e) disciplinary action against members;
- (f) arbitration of disputes (nature and number) between members and non-members;
- (g) defaults;
- (h) action taken to combat any emergency in trade;
- (i) securities listed and de-listed; and
- (j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

- (i) the official rates for the securities enlisted thereon;
- (ii) the number of shares delivered through the clearing house;
- (iii) the making-up prices;
- (iv) the clearing house programmes;
- (v) the number of securities listed and de-listed during the previous three months;
- (vi) the number of securities brought on or removed from the forward list during the previous three months; and
- (vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

(a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.

(d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.

(e) A statement showing—

(i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),

(ii) dividends or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements with or between :—

(i) vendors and/or promoters,

(ii) underwriters and sub-underwriters,

(iii) brokers and sub-brokers.

(g) Certified copies of agreements with—

(i) managing agents and secretaries and treasurers,

(ii) selling agents,

(iii) managing directors and technical directors,

(iv) general manager, sales manager, manager or secretary.

(h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.

(j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition

dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts

42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws Short title and
(Amendment) Ordinance, 2013. commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
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6. Power of Central Government to call for periodical returns or direct inquiries to be made
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- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
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 - 12A. Power to issue directions
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- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
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20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
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- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
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- 22E. Civil court not to have jurisdiction

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23. Penalties

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23B. Penalty for failure by any person to enter into an agreement with clients

23C. Penalty for failure to redress investors' grievances

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23F. Penalty for excess dematerialisation or delivery of unlisted securities

23G. Penalty for failure to furnish periodical returns, etc.

23H. Penalty for contravention where no separate penalty has been provided

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23J. Factors to be taken into account by adjudicating officer

23JA. Settlement of administrative and civil proceedings

23JB. Recovery of amounts

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27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(*t*) the regulation of dealings by members for their own account;

(*u*) the separation of the functions of jobbers and brokers;

(*v*) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(*w*) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(*b*) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(*i*) fine,

(*ii*) expulsion from membership,

(*iii*) suspension from membership for a specified period,

(*iv*) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

71 Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of documents ;

(c) receiving evidence on affidavits ;

(d) issuing commissions for the examination of witnesses or documents ;

(e) reviewing its decisions ;

(f) dismissing an application for default or deciding it *ex parte* ;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and

(h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of

⁸⁵ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.
1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

⁸⁸[**Appeal to Supreme Court.**

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a)** attachment and sale of the person's movable property;
- (b)** attachment of the person's bank accounts;
- (c)** attachment and sale of the person's immovable property;
- (d)** arrest of the person and his detention in prison;

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties, and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶[***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's⁶ movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷[Offences.

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³**[(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;]**

⁴**[(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶**[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]**

(m) performing such other functions as may be prescribed.

⁷**[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board**

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[or sub-section (2A)], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁴ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁵ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

1[(8) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

1 Substituted for “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

***Explanation-* For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.**

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

1[(9) The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002
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⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

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Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt*- If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;

(b) changes in the composition of the governing body;

(c) any new sub-committees set up and changes in the composition of existing ones;

²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

²³ Ibid.

(d) admissions, re-admissions, deaths or resignations of members;

(e) disciplinary action against members;

(f) arbitration of disputes (nature and number) between members and non-members;

(g) defaults;

(h) action taken to combat any emergency in trade;

(i) securities listed and de-listed; and

(j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

(i) the official rates for the securities enlisted thereon;

(ii) the number of shares delivered through the clearing house;

(iii) the making-up prices;

(iv) the clearing house programmes;

(v) the number of securities listed and de-listed during the previous three months;

(vi) the number of securities brought on or removed from the forward list during the previous three months; and

(vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
 - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
 - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
 - (i) vendors and/or promoters,
 - (ii) underwriters and sub-underwriters,
 - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
 - (i) managing agents and secretaries and treasurers,
 - (ii) selling agents,
 - (iii) managing directors and technical directors,
 - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....
.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts 42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013. Short title and
commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

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2. Definitions

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- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
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SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

creditors, depositors and employees of the recognised stock exchange and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(*t*) the regulation of dealings by members for their own account;

(*u*) the separation of the functions of jobbers and brokers;

(*v*) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(*w*) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(*b*) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(*i*) fine,

(*ii*) expulsion from membership,

(*iii*) suspension from membership for a specified period,

(*iv*) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

⁷¹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) reviewing its decisions ;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

⁸⁸[**Appeal to Supreme Court.**

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;**
- (b) attachment of the person's bank accounts;**
- (c) attachment and sale of the person's immovable property;**
- (d) arrest of the person and his detention in prison;**

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f.

20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties, and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶[***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷**[Offences.**

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]
Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³[(ia) **calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;**]

⁴[(ib) **calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[**or sub-section (2A)**], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ **Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.**

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

1[(8) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

1 Substituted for “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

***Explanation-* For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.**

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

1[(9) The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002 2002

⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) **No appeal shall lie to the Securities Appellate Tribunal from an order made—**

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt*- If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

- (a) changes in rules and bye-laws, if any;
- (b) changes in the composition of the governing body;
- (c) any new sub-committees set up and changes in the composition of existing ones;
- ²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996
- ²³ Ibid.
- (d) admissions, re-admissions, deaths or resignations of members;
- (e) disciplinary action against members;
- (f) arbitration of disputes (nature and number) between members and non-members;
- (g) defaults;
- (h) action taken to combat any emergency in trade;
- (i) securities listed and de-listed; and
- (j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

- (i) the official rates for the securities enlisted thereon;
- (ii) the number of shares delivered through the clearing house;
- (iii) the making-up prices;
- (iv) the clearing house programmes;
- (v) the number of securities listed and de-listed during the previous three months;
- (vi) the number of securities brought on or removed from the forward list during the previous three months; and
- (vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

(a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.

(d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.

(e) A statement showing—

(i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),

(ii) dividends or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements with or between :—

(i) vendors and/or promoters,

(ii) underwriters and sub-underwriters,

(iii) brokers and sub-brokers.

(g) Certified copies of agreements with—

(i) managing agents and secretaries and treasurers,

(ii) selling agents,

(iii) managing directors and technical directors,

(iv) general manager, sales manager, manager or secretary.

(h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.

(j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....
.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts 42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws Short title and
(Amendment) Ordinance, 2013. commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

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SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(*t*) the regulation of dealings by members for their own account;

(*u*) the separation of the functions of jobbers and brokers;

(*v*) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(*w*) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(*b*) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(*i*) fine,

(*ii*) expulsion from membership,

(*iii*) suspension from membership for a specified period,

(*iv*) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

71 Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) reviewing its decisions ;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

⁸⁸[**Appeal to Supreme Court.**

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a)** attachment and sale of the person's movable property;
- (b)** attachment of the person's bank accounts;
- (c)** attachment and sale of the person's immovable property;
- (d)** arrest of the person and his detention in prison;

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f.

20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶[***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷**[Offences.**

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³[(ia) **calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;**]

⁴[(ib) **calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[or sub-section (2A)], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁴ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

⁵ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002 2002

⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt-* If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;
(b) changes in the composition of the governing body;
(c) any new sub-committees set up and changes in the composition of existing ones;
²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

²³ Ibid.

(d) admissions, re-admissions, deaths or resignations of members;
(e) disciplinary action against members;
(f) arbitration of disputes (nature and number) between members and non-members;
(g) defaults;
(h) action taken to combat any emergency in trade;
(i) securities listed and de-listed; and
(j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

(i) the official rates for the securities enlisted thereon;
(ii) the number of shares delivered through the clearing house;
(iii) the making-up prices;
(iv) the clearing house programmes;
(v) the number of securities listed and de-listed during the previous three months;
(vi) the number of securities brought on or removed from the forward list during the previous three months; and
(vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
 - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
 - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
 - (i) vendors and/or promoters,
 - (ii) underwriters and sub-underwriters,
 - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
 - (i) managing agents and secretaries and treasurers,
 - (ii) selling agents,
 - (iii) managing directors and technical directors,
 - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....
.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts
42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT)

ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India.

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013. Short title and commencement.

(2) Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
5. Withdrawal of recognition
6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges.
 - 12A. Power to issue directions
13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (*ie*) of clause (*h*) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
19. Stock exchanges other than recognised stock exchanges prohibited
20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
22. Right of appeal against refusal of stock exchanges to list securities of public companies
- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
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SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[⁸(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(t) the regulation of dealings by members for their own account;

(u) the separation of the functions of jobbers and brokers;

(v) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(w) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(a) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(b) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(i) fine,

(ii) expulsion from membership,

(iii) suspension from membership for a specified period,

(iv) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

71 Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath ;

(b) requiring the discovery and production of documents ;

(c) receiving evidence on affidavits ;

(d) issuing commissions for the examination of witnesses or documents ;

(e) reviewing its decisions ;

(f) dismissing an application for default or deciding it *ex parte* ;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and

(h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of

⁸⁵ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.
1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

⁸⁸[**Appeal to Supreme Court.**

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a)** attachment and sale of the person's movable property;
- (b)** attachment of the person's bank accounts;
- (c)** attachment and sale of the person's immovable property;
- (d)** arrest of the person and his detention in prison;

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties, and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷**[Offences.**

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³[(ia) **calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;**]

⁴[(ib) **calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]

(m) performing such other functions as may be prescribed.

⁷[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[**or sub-section (2A)**], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ **Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002 2002

⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[**Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.**

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

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Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[*****]

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt-* If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

- (a) changes in rules and bye-laws, if any;
- (b) changes in the composition of the governing body;
- (c) any new sub-committees set up and changes in the composition of existing ones;
- ²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996
- ²³ Ibid.
- (d) admissions, re-admissions, deaths or resignations of members;
- (e) disciplinary action against members;
- (f) arbitration of disputes (nature and number) between members and non-members;
- (g) defaults;
- (h) action taken to combat any emergency in trade;
- (i) securities listed and de-listed; and
- (j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

- (i) the official rates for the securities enlisted thereon;
- (ii) the number of shares delivered through the clearing house;
- (iii) the making-up prices;
- (iv) the clearing house programmes;
- (v) the number of securities listed and de-listed during the previous three months;
- (vi) the number of securities brought on or removed from the forward list during the previous three months; and
- (vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
 - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
 - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
 - (i) vendors and/or promoters,
 - (ii) underwriters and sub-underwriters,
 - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
 - (i) managing agents and secretaries and treasurers,
 - (ii) selling agents,
 - (iii) managing directors and technical directors,
 - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....
.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts 42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the
Republic of India.

An Ordinance further to amend the Securities and Exchange
Board of India Act, 1992, the Securities Contracts (Regulation)
Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is
satisfied that the circumstances exist which render it necessary for
him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by
clause (1) of article 123 of the Constitution, the President is
pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013. Short title and
commencement.

(2) Save as otherwise provided in this Ordinance, the
provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
5. Withdrawal of recognition
6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges.
 - 12A. Power to issue directions
13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
19. Stock exchanges other than recognised stock exchanges prohibited
20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
22. Right of appeal against refusal of stock exchanges to list securities of public companies
- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
- 22B. Procedure and powers of Securities Appellate Tribunal
- 22C. Right to legal representation
- 22D. Limitation
- 22E. Civil court not to have jurisdiction

22F. Appeal to Supreme Court

PENALTIES AND PROCEDURE

23. Penalties

23A. Penalty for failure to furnish information, return, etc.

23B. Penalty for failure by any person to enter into an agreement with clients

23C. Penalty for failure to redress investors' grievances

23D. Penalty for failure to segregate securities or moneys of client or clients

23E. Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds

23F. Penalty for excess dematerialisation or delivery of unlisted securities

23G. Penalty for failure to furnish periodical returns, etc.

23H. Penalty for contravention where no separate penalty has been provided

23-I. Power to adjudicate

23J. Factors to be taken into account by adjudicating officer

23JA. Settlement of administrative and civil proceedings

23JB. Recovery of amounts

23K. Crediting sums realised by way of penalties to Consolidated Fund of India

23L. Appeal to Securities Appellate Tribunal

23M. Offences

23N. Composition of certain offences

23-O. Power to grant immunity

24. Offences by companies

25. Certain offences to be cognizable

26. Cognizance of offences by courts

26A. Establishment of Special Courts

26B. Offences triable by Special Courts

26C. Appeal and revision

26D. Application of Code to proceedings before Special Court

26E. Transitional Provisions

MISCELLANEOUS

27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(*t*) the regulation of dealings by members for their own account;

(*u*) the separation of the functions of jobbers and brokers;

(*v*) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(*w*) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(*b*) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(*i*) fine,

(*ii*) expulsion from membership,

(*iii*) suspension from membership for a specified period,

(*iv*) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

71 Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) reviewing its decisions ;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

⁸⁸[**Appeal to Supreme Court.**

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;**
- (b) attachment of the person's bank accounts;**
- (c) attachment and sale of the person's immovable property;**
- (d) arrest of the person and his detention in prison;**

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties, and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷[Offences.

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

1

SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

SECTIONS

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³**[(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;]**

⁴**[(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶**[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]**

(m) performing such other functions as may be prescribed.

⁷**[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board**

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[**or sub-section (2A)**], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ **Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.**

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

¹[CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002
2002

⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[,15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.]

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.]

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt*- If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]

***SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely :—

Short title.

1. These rules may be called the Securities Contracts (Regulation) Rules, 1957.

Definitions.

2. In these rules, unless the context otherwise requires,—

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(c) “Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments ;

¹[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

Explanation: For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

²[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company:]

¹[(e) “public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.]

Application for recognition.

3. An application under section 3 of the Act for recognition of a stock exchange shall be made to the ³[Securities and Exchange Board of India] in Form A.

* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.

¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

² Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Fees for application.

4. (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

Documents to be filed along with the application and particulars it should contain.

5. Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an

incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

4[Power to make inquiries and call for information.

5A. Before granting recognition to a stock exchange under section 4 of the Act, the ⁵[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

Form of recognition.

6. The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely :—

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

⁴ Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

⁵ Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment)Rules, 1996, w.e.f. 23.12.1996.

Renewal of recognition.

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the ⁶[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

Qualifications for membership of a recognised stock exchange.

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that :

(1) No person shall be eligible to be elected as a member if—

- (a) he is less than twenty-one years of age;
- (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the ⁹[Securities and Exchange Board of India];
- (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
- (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
- (e) he has been convicted of an offence involving fraud or dishonesty;
- (f) he is engaged as principal or employee in any business other than that of securities ⁷[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

⁸**Provided** that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time :

⁶ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

⁷ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

⁸ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003. Prior to its substitution, the proviso as amended by Securities Contracts (Regulation) (Amendment) Rules, 1996 w.e.f. 23.12.1996, read as under:

“Provided that the Securities and Exchange Board of India may, for reasons sufficient in the opinion of the said Board, permit a recognized stock exchange to suspend the enforcement of this clause for a specified period on condition that the applicant is not associated with or is a member of or subscriber to or shareholder or debenture holder in or connected through a partner or employee with any other organisation, institution, association, company or corporation in India where forward business of any kind whether in goods or commodities or otherwise is carried on or is not engaged as a principal or employee in any such business.”

Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).];

(g) ⁹[***]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless :—

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member ; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative :

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India :

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) ¹⁰[* * *]

(e) ¹¹[* * *]

(f) he engages either as principal or employee in any business other than that of securities ¹²[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—

⁹ Omitted by GSR 1070(E) dated 15.11.1988

¹⁰ Ibid.

¹¹ Ibid.

¹² Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,

(ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,

¹³[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items (a) to (k) of the proviso to sub-rule (4).]

(4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 322 of the said Act;

(ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and

(iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company :

Provided that where the ¹⁴[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations ¹⁵[bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(d) the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972);

(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

¹³ Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

¹⁴ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

¹⁵ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

¹⁶[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

(i) such company is formed in compliance with the provisions of section 12 of the said Act;

(ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(iii) ¹⁷[* * *]

(iv) the directors of the company are not disqualified from being members of a stock exchange under ¹⁸[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and

(v) not less than two directors of the company are persons who possess a minimum two years' experience :

(a) in dealing in securities; or

(b) as portfolio managers; or

(c) as investment consultants.

(5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.

¹⁶ Inserted, *ibid*.

¹⁷ Omitted by GSR 749 (E), dated 12.10.1994

¹⁸ Substituted by GSR 790(E), dated 07.11.1994

Contracts between members of recognised stock exchange.

9. All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

¹⁹[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.

10. The ²⁰[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

Obligation of the governing body to take disciplinary action against a member if so directed by the ²¹[Securities and Exchange Board of India].

11. After receiving the report of the result of an enquiry made under clause (b) of subsection

(3) of section 6 of the Act, the ²¹ [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the ²¹[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the ²¹[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the ²¹[Securities and Exchange Board of India]. The ²¹[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

Audit of accounts of members.

12. Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the ²¹[Securities and Exchange Board of India].

Withdrawal of recognition.

13. The written notice referred to in section 5 of the Act shall be in Form C.

¹⁹ Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

²⁰ *Ibid*.

²¹ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

Books of account and other documents to be maintained and preserved by every recognised stock exchange.

14. Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

(1) Minute books of the meetings of—

(a) members;

(b) governing body;

(c) any standing committee or committees of the governing body or of the general body of members.

(2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.

(3) Register of authorised clerks.

(4) Register of remisiers of authorised assistants.

(5) Record of security deposits.

(6) Margin deposits book.

(7) Ledgers.

(8) Journals.

(9) Cash book.

(10) Bank pass-book.

Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.

15. (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

(a) Register of transactions (*Sauda* book).

(b) Clients' ledger.

(c) General ledger.

(d) Journals.

(e) Cash book.

(f) Bank pass-book.

(g) Documents register showing full particulars of shares and securities received and delivered.

(2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:

(a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.

(b) Counterfoils or duplicates of contract notes issued to clients.

(c) Written consent of clients in respect of contracts entered into as principals.

Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.

16. (1)(a) The person or persons appointed by the 22[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of

an equality of votes, the chairman or senior member shall have a casting vote;
(f) the inquiring authority shall submit its report in writing to the ²²[Securities and Exchange Board of India] within the period specified in the order of appointment;
(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the ²²[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

Submission of annual report.

17. (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the ²³[Securities and Exchange Board of India] may, from time to time, allow, furnish the ²³[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;

(b) changes in the composition of the governing body;

(c) any new sub-committees set up and changes in the composition of existing ones;

²² Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

²³ Ibid.

(d) admissions, re-admissions, deaths or resignations of members;

(e) disciplinary action against members;

(f) arbitration of disputes (nature and number) between members and non-members;

(g) defaults;

(h) action taken to combat any emergency in trade;

(i) securities listed and de-listed; and

(j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the ²⁴[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

Submission of periodical returns.

17A. Every recognised stock exchange shall furnish the ²⁴[Securities and Exchange Board of India] periodical returns relating to—

(i) the official rates for the securities enlisted thereon;

(ii) the number of shares delivered through the clearing house;

(iii) the making-up prices;

(iv) the clearing house programmes;

(v) the number of securities listed and de-listed during the previous three months;

(vi) the number of securities brought on or removed from the forward list during the previous three months; and

(vii) any other matter as may be specified by the ²⁴[Securities and Exchange Board of India].

Manner of publication of bye-laws for criticism.

18. The bye-laws to be made, amended or revised under the Act shall be published for

criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

Requirements with respect to the listing of securities on a recognised stock exchange.

19. (1) A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

²⁴ Ibid.

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
 - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
 - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
 - (i) vendors and/or promoters,
 - (ii) underwriters and sub-underwriters,
 - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
 - (i) managing agents and secretaries and treasurers,
 - (ii) selling agents,
 - (iii) managing directors and technical directors,
 - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.

(k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

(m) Certified copies of—

²⁵[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]

(ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.

(n) Particulars of shares forfeited.

(o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.

(p) Particulars of shares or debentures for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer,

(ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,

(iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,

(iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,

(v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

²⁵ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

²⁶[(b) (i) At least twenty five per cent. of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the

company calculated at offer price is more than four thousand crore rupees:
Provided that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule 2 of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement:

27[Provided further that the company, referred to in sub clause (ii), shall increase its public shareholding to at least twenty five per cent, within a

²⁶ Substituted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, clause (b) as amended by the Amendment Rules, 2001, w.e.f. 07.06.2001, read as under:

“(b) At least 10 per cent of each class or kind of securities issued by a company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted subject to the following conditions:

(a) minimum 20 lakh securities (excluding reservations, firm allotment and promoters’ contribution) was offered to the public;

(b) the size of the offer to the public, *i.e.*, the offer price multiplied by the number of securities offered to the public was minimum Rs. 100 crores; and

(c) the issue was made only through book building method with allocation of 60 per cent of the issue size to the qualified institutional buyers as specified by the Securities and Exchange Board of India:

Provided that if a company does not fulfil the conditions, it shall offer at least 25 per cent of each class or kind of securities to the public for subscription through advertisement in newspapers for a period not less than two days and that applications received in pursuance of such offer were allotted:

Provided further that a recognised stock exchange may relax any of the conditions with the previous approval of the Securities and Exchange Board of India, in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and subject to such instructions as that Board may issue in this behalf from time to time.

Explanation.—For the purpose of this clause, it is hereby clarified that where any part of the securities sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Fire and General Insurance Company Limited and the United Fire and General Insurance Company Limited or Unit Trust of India, the total subscription to the securities, whether by one or more of such bodies, shall not form part of the 10 per cent or 25 per cent of the securities, as the case may be, to be offered to the public.”

²⁷ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010. Prior to its substitution, second proviso, read as under:

“Provided further that the company, referred in sub-clause (ii), shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of atleast five per period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.]

28[***]]

29[(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent, of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document.]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

(a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to

that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,

(ii) that letters of right will be issued simultaneously,

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,

(v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,

(b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes ; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

cent per annum beginning from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India.”

²⁸ Omitted, *ibid* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

²⁹ Inserted, *ibid*.

(c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company’s split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and

(ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to

and registered by the company;

(e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;

(f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;

(g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(h) to notify the stock exchange of any material change in the general character or nature of the company's business;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director, managing agent or secretaries and treasurers,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the shareholders of any new issue of securities whether by way of right, privilege bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of capital including calls;

(o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debentureholders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken); and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by,

and address of, each such holder;

(q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange,

(ii) of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing,

(iii) of the amount of securities outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

³⁰[(4) An application for listing shall be necessary in respect of the following:

(a) all new issues of any class or kind of securities of a company to be offered to the public;

(b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

³¹[**Provided further** that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

³²[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore

or re-admit to dealings any securities suspended or withdrawn from the list.]

³³[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing

³⁰ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

(a) they are of the same nominal value and the same amount per share has been called up;

(b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and

(c) they carry the same rights in all other respects.”

³¹ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000.

Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

³² Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, subrule

(6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

³³ Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f.

09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts

prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

³⁴[***]

(7) The ³⁵[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

³⁶[**Continuous Listing Requirement.**

19A. (1) Every listed company ³⁷[other than public sector company] shall maintain public shareholding of at least twenty five per cent.:

³⁸[Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of sub-clause (ii) of clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent.

(Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

³⁴ Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

³⁵ Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

³⁶ Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

³⁷ Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

³⁸ Substituted, *ibid.* Prior to substitution, provisos, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

³⁹[(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent.:

Provided that a listed public sector company-

(a) which has public shareholding below ten per cent, on the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of three years from the date of such commencement;

(b) whose public shareholding reduces below ten per cent, after the date of commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2010 shall increase its public shareholding to at least ten per cent, in the manner specified by the Securities and Exchange Board of India, within a period of twelve months from the date of such reduction,.]

⁴⁰[**Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

20. (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

(a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.

(b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

(c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.

(d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.

(e) A statement showing,—

(i) returns and cash bonuses, if any, paid during the last ten years (or such

shorter period as the company has been in existence whether as a private or public company);

(ii) returns or interest in arrears, if any.

(f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—

(i) vendors and/or promoters;

(ii) underwriters and sub-underwriters;

³⁹ Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010

⁴⁰ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

(iii) brokers and sub-brokers.

(g) Certified copies of agreements pertaining to each scheme of a company with—

(i) selling agents and other service providers;

(ii) managing directors and technical directors;

(iii) general manager, sales manager, manager or secretary.

(h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.

(i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.

(j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.

(k) Particulars of units of the scheme and/or shares, debentures of the company issued

(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

(l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.

(m) Certified copies of—

(i) certificate of registration granted by the Securities and Exchange Board of India;

(ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;

(iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).

(n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.

(o) Particulars of units of the scheme for which permission to deal is applied for :

Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.

(2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :

(a) Its articles of association provide for the following among others—

(i) that the company shall use a common form of transfer of units of a particular scheme;

(ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;

(iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;

(iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;

(v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

(b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

Explanation.—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government, development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

(a) (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been

posted;

(ii) that letters of right will be issued simultaneously;

(iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;

(iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;

(v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;

(b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;

(c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;

(d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :

(i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders; and

(ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;

(e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;

(f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;

(g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or

any other instrument will be considered;

(h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;

(i) to notify the stock exchange of any change—

(i) in the company's directorate by death, resignation, removal or otherwise,

(ii) of managing director,

(iii) of auditors appointed to audit the books and account of the company;

(j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;

(k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;

(l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;

(m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;

(n) to notify the stock exchange of any other alteration of unit capital including calls;

(o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

(p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;

(q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;

(r) to promptly notify the stock exchange—

(i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;

(ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;

(iii) of the amount of units/other instruments outstanding after any drawing has been made;

(s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;

(t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

Explanation.—Units/any other instruments are identical in all respects only if—

(a) they are issued under the same scheme;

(b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

(c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and

(d) they carry the same rights in all other respects.

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :

Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an

opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.

(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.

(7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :

Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

(8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.]

⁴¹[**Delisting of securities.**

21. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

(a) the company has incurred losses during the preceding three consecutive years and it has negative networth;

(b) trading in the securities of the company has remained suspended for a period of more than six months;

(c) the securities of the company have remained infrequently traded during the preceding three years;

(d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;

(e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or

⁴¹ Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

(f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.
- (3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—
- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

FORM A

(See Rules 3 and 7)

Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956

To

.....

Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.

Sir,

Pursuant to the 42[Securities and Exchange Board of India] Notification No.

..... dated/Certificate of recognition

dated..... We/I on behalf of (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts

42 Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

(Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the 43[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. dated.....for Rs.....is attached.

Yours faithfully,

Signature of applicant

ANNEXURE TO FORM 'A'

Part I - General

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

Part II - Membership

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.

⁴³ Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

Part III - Governing Body

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so,

give details of interests represented.

19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.

20. Are there any Government representatives on your governing body ? If so, furnish their names.

21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* subcommittees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.

23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

Part IV - Trading

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.

25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.

26. Give details of business hours for each type of contract.

27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.

28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.

29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.

30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.

31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?

32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.

33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?

34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.

35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.

36. How do you fix, alter or postpone the dates of settlement ?

37. How do you determine and declare making-up prices ?

38. Do you have any arrangements for making or recording of bargains ?

39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?

40. What provisions have you made for regulating—(a) the entering into contracts, their

performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) 'havalas' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.

42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.

43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bearraids' and for meeting emergencies in trade ? Give details.

44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?

45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?

46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?

47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.

48. Do you have any bye-laws contravention of which makes a contract void ?

Part V - Miscellaneous

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.

50. What are the conditions subject to which securities are listed for dealings on your exchange ?

51. What are your requirements for admitting securities to forward-trading ?

52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?

53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

FORM B

(See rules 6 and 7)

⁴⁴[The Securities and Exchange Board of India]

New Delhi, the 20.....

No. The ⁴⁵[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for year/years ending 20 on a permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the ⁴⁶[Board] Signature of Officer

Note:—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

⁴⁷[**FORM C**

(See rule 13)

Notice to show cause against the withdrawal of recognition

THE SECURITIES AND EXCHANGE BOARD OF INDIA

Mumbai, the.....

To

.....
⁴⁴ Substituted for “Government of India, Ministry of Finance” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

⁴⁵ Substituted for “Central Government”, *ibid*.

⁴⁶ Substituted for “Ministry”, *ibid*.

⁴⁷ Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

.....
(name and address of the exchange)

You are hereby called upon to show cause on or before at the office of (designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. dated and Certificate No. dated should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

Notification : *No. 576, dated 21-2-1957.*



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, बृहस्पतिवार, जुलाई 18, 2013/आषाढ़ 27, 1935 (शक)
No. 26] NEW DELHI, THURSDAY, JULY 18, 2013/ASADHA 27, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th July, 2013/Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT)

ORDINANCE, 2013

No. 8 OF 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India.

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2013. Short title and commencement.

(2) Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall come into force at once.

PRELIMINARY

1. Short title, extent and commencement
2. Definitions

RECOGNISED STOCK EXCHANGES

3. Application for recognition of stock exchanges
4. Grant of recognition to stock exchanges.
 - 4A. Corporatisation and demutualisation of stock exchanges
 - 4B. Procedure for corporatisation and demutualisation
5. Withdrawal of recognition
6. Power of Central Government to call for periodical returns or direct inquiries to be made
7. Annual reports to be furnished to Central Government by stock exchanges
- 7A. Power of recognised stock exchange to make rules restricting voting rights, etc
8. Power of Central Government to direct rules to be made or to make rules
- 8A. Clearing corporation
9. Power of recognised stock exchanges to make bye-laws
10. Power of Securities and Exchange Board of India to make or amend byelaws of recognised stock exchanges
11. Power of Central Government to supersede governing body of a recognised stock exchange
12. Power to suspend business of recognised stock exchanges.
 - 12A. Power to issue directions
13. Contracts in notified areas illegal in certain circumstances
- 13A. Additional trading floor
14. Contracts in notified areas to be void in certain circumstances
15. Members may not act as principals in certain circumstances
16. Power to prohibit contracts in certain cases
17. Licensing of dealers in securities in certain areas
- 17A. Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2
18. Exclusion of spot delivery contracts from sections 13, 14, 15 and 17
- 18A. Contracts in derivative
19. Stock exchanges other than recognised stock exchanges prohibited
20. Prohibition of options in securities
21. Conditions for listing
- 21A. Delisting of securities
22. Right of appeal against refusal of stock exchanges to list securities of public companies
- 22A. Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies
- 22B. Procedure and powers of Securities Appellate Tribunal
- 22C. Right to legal representation
- 22D. Limitation
- 22E. Civil court not to have jurisdiction

22F. Appeal to Supreme Court

PENALTIES AND PROCEDURE

23. Penalties

23A. Penalty for failure to furnish information, return, etc.

23B. Penalty for failure by any person to enter into an agreement with clients

23C. Penalty for failure to redress investors' grievances

23D. Penalty for failure to segregate securities or moneys of client or clients

23E. Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds

23F. Penalty for excess dematerialisation or delivery of unlisted securities

23G. Penalty for failure to furnish periodical returns, etc.

23H. Penalty for contravention where no separate penalty has been provided

23-I. Power to adjudicate

23J. Factors to be taken into account by adjudicating officer

23JA. Settlement of administrative and civil proceedings

23JB. Recovery of amounts

23K. Crediting sums realised by way of penalties to Consolidated Fund of India

23L. Appeal to Securities Appellate Tribunal

23M. Offences

23N. Composition of certain offences

23-O. Power to grant immunity

24. Offences by companies

25. Certain offences to be cognizable

26. Cognizance of offences by courts

26A. Establishment of Special Courts

26B. Offences triable by Special Courts

26C. Appeal and revision

26D. Application of Code to proceedings before Special Court

26E. Transitional Provisions

MISCELLANEOUS

27. Title to dividends

27A. Right to receive income from collective investment scheme

27B. Right to receive income from mutual fund

28. Act not to apply in certain cases

29. Protection of action taken in good faith

29A. Power to delegate

30. Power to make rules

31. Power of Securities and Exchange Board of India to make regulations

SECURITIES CONTRACTS (REGULATION) ACT, 1956

[42 OF 1956]

[4th September, 1956]

An Act to prevent undesirable transactions in securities by regulating the business of dealing therein, ¹[*] by providing for certain other matters connected therewith.**

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows :

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities Contracts (Regulation) Act, 1956.

(2) It extends to the whole of India.

¹ Words “by prohibiting options and” omitted by the Securities Laws (Amendment) Act, 1995, Sec. 18, w.e.f. 25-01-1995.

(3) It shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “contract” means a contract for or relating to the purchase or sale of securities;

³ [(aa) “corporatisation” means the succession of a recognised stock exchange, being a body of individuals or a society registered under the Societies Registration Act, 1860 (21 of 1860), by another stock exchange, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities carried on by such individuals or society;

(ab) “demutualisation” means the segregation of ownership and management from the trading rights of the members of a recognised stock exchange in accordance with a scheme approved by the Securities and Exchange Board of India;]

⁴ [5[(ac)] “derivative” includes—

(A) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

(B) a contract which derives its value from the prices, or index of prices, of underlying securities;]

(b) “Government security” means a security created and issued, whether before or after the commencement of this Act, by the Central Government or a State Government for the purpose of raising a public loan and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(c) “member” means a member of a recognised stock exchange;

(d) “option in securities” means a contract for the purchase or sale of a right to buy or sell, or a right to buy and sell, securities in future, and includes a *teji*, a *mandi*, a *teji mandi*, a *galli*, a put, a call or a put and call in securities;

(e) “prescribed” means prescribed by rules made under this Act;

² 20-2-1957 *vide* SRO 528, dated 16-02-1957, published in the Gazette of India, Extra., Pt. II, Sec. 3,

p. 549, dated 16-02-1957.

³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁴ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

⁵ Clause (aa) renumbered as clause (ac) by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

(f) “recognised stock exchange” means a stock exchange which is for the time

being recognised by the Central Government under section 4;

(g) “rules”, with reference to the rules relating in general to the constitution and management of a stock exchange, includes, in the case of a stock exchange which is an incorporated association, its memorandum and articles of association;

⁶[(ga) “scheme” means a scheme for corporatisation or demutualisation of a recognised stock exchange which may provide for—

(i) the issue of shares for a lawful consideration and provision of trading rights in lieu of membership cards of members of a recognised stock exchange;

(ii) the restrictions on voting rights;

(iii) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised stock exchange, legal proceedings by, or against, the recognised stock exchange, whether in the name of the recognised stock exchange or any trustee or otherwise and any permission given to, or by, the recognised stock exchange;

(iv) the transfer of employees of a recognised stock exchange to another recognised stock exchange;

(v) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised stock exchange;]

⁷[(gb)] “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) “securities” include—

(i) shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

⁹[(ia) derivative;

(ib) units or any other instrument issued by any collective investment scheme to the investors in such schemes;]

⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.r.e.f. 12-10-2004.

⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 2, w.e.f. 16-12-1999.

⁸ Clause (ga) renumbered as clause (gb) by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004.

⁹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec. 2, w.e.f. 22-2-2000.

¹⁰[(ic) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;]

¹¹[(id) units or any other such instrument issued to the investors under any mutual fund scheme;]

¹²[Explanation.—For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such

persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938);]

¹³[(ie) any certificate or instrument (by whatever name called), issued to an investor by any issuer being a special purpose distinct entity which possesses any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;]

¹⁰ Inserted by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Sec. 41 and Schedule, w.r.e.f. 21-6-2002.

¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 2, w.e.f. 12-10-2004.

¹² Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, Sec 4, w.r.e.f. 09-04-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, read as under :

"CHAPTER VI

MISCELLANEOUS

6. *Validation*.—Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of

the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly, any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings*.—(1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of

1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act."

¹³ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 2, w.e.f. 28-5-2007.

¹⁴[(ii) Government securities;

(iia) such other instruments as may be declared by the Central Government to be securities; and]

(iii) rights or interest in securities;

¹⁵[(i) "spot delivery contract" means a contract which provides for,—

(a) actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same

town or locality;

(b) transfer of the securities by the depository from the account of a beneficial owner to the account of another beneficial owner when such securities are dealt with by a depository;]

¹⁶[(j) “stock exchange” means—

(a) any body of individuals, whether incorporated or not, constituted before corporatisation and demutualisation under sections 4A and 4B, or

(b) a body corporate incorporated under the Companies Act, 1956 (1 of 1956) whether under a scheme of corporatisation and demutualisation or otherwise,

for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.]

¹⁷[**Interpretation of certain words and expressions.**

2A. Words and expressions used herein and not defined in this Act but defined in the Companies Act, 1956 (1 of 1956) or the Securities and Exchange Board of India

¹⁴ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, for sub-clause (ii), w.r.e.f. 30-01-1992.

¹⁵ Substituted by the Depositories Act, 1996, Sec 30 and Schedule, Pt. III, w.r.e.f. 20-09-1995.

Prior to its substitution, clause (i) read as under :

‘(i) “spot delivery contract” means a contract which provides for the actual delivery of securities and the payment of a price therefor either on the same day as the date of the contract or on the next day, the actual period taken for the despatch of the securities or the remittance of money therefor through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;’

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 2, w.r.e.f. 12-10-2004. Prior to its substitution, clause (j) read as under :—

‘(j) “stock exchange” means any body of individuals, whether incorporated or not, constituted for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities.’

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 3, w.e.f. 16-12-1999.

Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) shall have the same meanings respectively assigned to them in those Acts.]

RECOGNISED STOCK EXCHANGES

Application for recognition of stock exchanges.

3. (1) Any stock exchange, which is desirous of being recognised for the purposes of this Act, may make an application in the prescribed manner to the Central Government.¹⁸

(2) Every application under sub-section (1) shall contain such particulars as may be prescribed, and shall be accompanied by a copy of the bye-laws of the stock exchange for the regulation and control of contracts and also a copy of the rules relating in general to the constitution of the stock exchange and in particular, to—

(a) the governing body of such stock exchange, its constitution and powers of management and the manner in which its business is to be transacted;

(b) the powers and duties of the office bearers of the stock exchange;

(c) the admission into the stock exchange of various classes of members, the qualifications for membership, and the exclusion, suspension, expulsion and

re-admission of members therefrom or thereinto;

(d) the procedure for the registration of partnerships as members of the stock exchange in cases where the rules provide for such membership; and the nomination and appointment of authorised representatives and clerks.

Grant of recognition to stock exchanges.

4. (1) If the Central Government¹⁹ is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require,—

(a) that the rules and bye-laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors;

(b) that the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government, after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this Act; and

¹⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

(c) that it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange;

it may grant recognition to the stock exchange subject to the conditions imposed upon it as aforesaid and in such form as may be prescribed.

(2) The conditions which the Central Government²⁰ may prescribe under clause (a) of sub-section (1) for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to,—

(i) the qualifications for membership of stock exchanges;

(ii) the manner in which contracts shall be entered into and enforced as between members;

(iii) the representation of the Central Government on each of the stock exchange by such number of persons not exceeding three as the Central Government may nominate in this behalf; and

(iv) the maintenance of accounts of members and their audit by chartered accountants whenever such audit is required by the Central Government.

(3) Every grant of recognition to a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the stock exchange is situate, and such recognition shall have effect as from the date of its publication in the Gazette of India.²¹

(4) No application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in the matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.²²

(5) No rules of a recognised stock exchange relating to any of the matters specified in sub-section (2) of section 3 shall be amended except with the approval of the

Central Government.²³

24[Corporatisation and demutualisation of stock exchanges.

4A. On and from the appointed date, all recognised stock exchanges (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 4B :

²⁰ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²³ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

²⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

Provided that the Securities and Exchange Board of India may, if it is satisfied that any recognised stock exchange was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, specify another appointed date in respect of that recognised stock exchange and such recognised stock exchange may continue as such before such appointed date.

Explanation.—For the purposes of this section, “appointed date” means the date which the Securities and Exchange Board of India may, by notification in the Official Gazette, appoint and different appointed dates may be appointed for different recognised stock exchanges.]

25[Procedure for corporatisation and demutualisation.

4B. (1) All recognised stock exchanges referred to in section 4A shall, within such time as may be specified by the Securities and Exchange Board of India, submit a scheme for corporatisation and demutualisation for its approval :

Provided that the Securities and Exchange Board of India, may, by notification in the Official Gazette, specify name of the recognised stock exchange, which had already been corporatised and demutualised, and such stock exchange shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Securities and Exchange Board of India may, after making such enquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Securities and Exchange Board of India if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised stock exchange or payment of dividends to members have been proposed out of any reserves or assets of that stock exchange.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Securities and Exchange Board of India in the Official Gazette;

(b) the recognised stock exchange in such two daily newspapers circulating in India, as may be specified by the Securities and Exchange Board of India,

and upon such publication, notwithstanding anything to the contrary contained in this Act or any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members,

²⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 3, w.r.e.f. 12-10-2004.

persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised stock exchange or its members.

(5) Where the Securities and Exchange Board of India is satisfied that it would not be in the interest of the trade and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette :

Provided that the Securities and Exchange Board of India shall give a reasonable opportunity of being heard to all the persons concerned and the recognised stock exchange concerned before passing an order rejecting the scheme.

(6) The Securities and Exchange Board of India may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also stock brokers of the recognised stock exchange;

(b) the right of shareholders or a stock broker of the recognised stock exchange to appoint the representatives on the governing board of the stock exchange;

(c) the maximum number of representatives of the stock brokers of the recognised stock exchange to be appointed on the governing board of the recognised stock exchange, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956), or any other law for the time being in force, have full effect.

(8) Every recognised stock exchange, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2), shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Securities and Exchange Board of India²⁶, ensure that at least fifty-one per cent of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights :

Provided that the Securities and Exchange Board of India may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.]

²⁶ See Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, w.e.f. 20-06-2012 notified *vide* Gazette Notification No. LAD-NRO/GN/2012-

13/07/13546, Extra., Pt. III, Section 4, dtd 20-06-2012.

Withdrawal of recognition.

5. ²⁷[(1)] If the Central Government²⁸ is of opinion that the recognition granted to a stock exchange under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may serve on the governing body of the stock exchange a written notice that the Central Government is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the Central Government may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

²⁹[(2) Where the recognised stock exchange has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 4B within the specified time therefor or the scheme has been rejected by the Securities and Exchange Board of India under sub-section (5) of section 4B, the recognition granted to such stock exchange under section 4, shall, notwithstanding anything to the contrary contained in this Act, stand withdrawn and the Central Government shall publish, by notification in the Official Gazette, such withdrawal of recognition :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Securities and Exchange Board of India may, after consultation with the stock exchange, make such provisions as it deems fit in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 4B.]

Power of Central Government to call for periodical returns or direct inquiries to be made.

6. (1) Every recognised stock exchange shall furnish to the ³⁰[Securities and Exchange Board of India] such periodical returns relating to its affairs as may be prescribed.

²⁷ Section 5 renumbered as sub-section (1) by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

²⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 4, w.r.e.f. 12-10-2004.

³⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(2) Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest, and such books of account, and other documents shall be subject to inspection at all reasonable times ³¹[by the Securities and Exchange Board of India].

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the

³²[Securities and Exchange Board of India], if it is satisfied that it is in the interest of the trade or in the public interest so to do, may, by order in writing,—

(a) call upon a recognised stock exchange or any member thereof to furnish in writing such information or explanation relating to the affairs of the stock exchange or of the member in relation to the stock exchange as the ³³[Securities and Exchange Board of India] may require; or

(b) appoint one or more persons to make an inquiry in the prescribed manner in relation to the affairs of the governing body of a stock exchange or the affairs of any of the members of the stock exchange in relation to the stock exchange and submit a report of the result of such inquiry to the ³⁴[Securities and Exchange Board of India] within such time as may be specified in the order or, in the case of an inquiry in relation to the affairs of any of the members of a stock exchange, direct the governing body to make the inquiry and submit its report to the ³⁵[Securities and Exchange Board of India].

(4) Where an inquiry in relation to the affairs of a recognised stock exchange or the affairs of any of its members in relation to the stock exchange has been undertaken under sub-section (3),—

(a) every director, manager, secretary or other officer of such stock exchange;

(b) every member of such stock exchange;

(c) if the member of the stock exchange is a firm, every partner, manager, secretary or other officer of the firm; and

(d) every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in clauses (a), (b) and (c), whether directly or indirectly;

³¹ Substituted for "by the Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

³⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

shall be bound to produce before the authority making the inquiry all such books of account, and other documents in his custody or power relating to or having a bearing on the subject-matter of such inquiry and also to furnish the authorities within such time as may be specified with any such statement or information relating thereto as may be required of him.

³⁶Annual reports to be furnished to Central Government by stock exchanges.

7. Every recognised stock exchange shall furnish the Central Government with a copy of the annual report, and such annual report shall contain such particulars as may be prescribed.

³⁷[Power of recognised stock exchange to make rules restricting voting rights, etc.

7A. (1) A recognised stock exchange may make rules or amend any rules made by it

to provide for all or any of the following matters, namely :—

(a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting;

(b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;

(c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange;

(d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a), (b) and (c).

(2) No rules of a recognised stock exchange made or amended in relation to any matter referred to in clauses (a) to (d) of sub-section (1) shall have effect until they have been approved by the Central Government³⁶ and published by that Government in the Official Gazette and, in approving the rules so made or amended, the Central Government may make such modifications therein as it thinks fit, and on such publication, the rules as approved by the Central Government shall be deemed to have been validly made, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1 of 1956).]

³⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

³⁷ Inserted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 2, w.e.f. 08-12-1959.

³⁸ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

Power of Central Government³⁹ to direct rules to be made or to make rules.

8. (1) Where, after consultation with the governing bodies of stock exchanges generally or with the governing body of any stock exchange in particular, the Central Government is of opinion that it is necessary or expedient so to do, it may, by order in writing together with a statement of the reasons therefor, direct recognised stock exchanges generally or any recognised stock exchange in particular, as the case may be, to make any rules or to amend any rules already made in respect of all or any of the matters specified in sub-section (2) of section 3 within a period of ⁴⁰[two months] from the date of the order.

(2) If any recognised stock exchange fails or neglects to comply with any order made under sub-section (1) within the period specified therein, the Central Government may make the rules for, or amend the rules made by, the recognised stock exchange, either in the form proposed in the order or with such modifications thereof as may be agreed to between the stock exchange and the Central Government.

(3) Where in pursuance of this section any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India and also in the Official Gazette or Gazettes of the State or States in which the principal office or offices of the recognised stock exchange or exchanges is or are situate, and, on the publication thereof in the Gazette of India, the rules so made or amended shall, notwithstanding anything to the contrary contained in the Companies Act, 1956 (1

of 1956), or in any other law for the time being in force, have effect as if they had been made or amended by the recognised stock exchange or stock exchanges, as the case may be.

41[Clearing corporation.]

8A. (1) A recognised stock exchange may, with the prior approval of the Securities and Exchange Board of India, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956 (1 of 1956), for the purpose of—

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1),

³⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁴⁰ Substituted for “six months” by the Securities Laws (Amendment) Act, 1995, Sec 19, w.e.f. 25-01-1995.

⁴¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 5, w.r.e.f. 12-10-2004.

make bye-laws and submit the same to the Securities and Exchange Board of India for its approval.

(3) The Securities and Exchange Board of India may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the byelaws submitted to it under sub-section (2) and approve the transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1) as they apply in relation to a recognised stock exchange.]

Power of recognised stock exchanges to make bye-laws.

9. (1) Any recognised stock exchange may, subject to the previous approval of the ⁴²[Securities and Exchange Board of India], make bye-laws for the regulation and control of contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for :

- (a) the opening and closing of markets and the regulation of the hours of trade;
- (b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house;
- (c) the submission to the ⁴³[Securities and Exchange Board of India] by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars as the ⁴⁴[Securities and Exchange Board of India] may, from time to time, require, namely :—

(i) the total number of each category of security carried over from one settlement period to another;

(ii) the total number of each category of security, contracts in respect of

which have been squared up during the course of each settlement period;
(iii) the total number of each category of security actually delivered at each clearing;

⁴² Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

(d) the publication by the clearing house of all or any of the particulars submitted to the ⁴⁵[Securities and Exchange Board of India] under clause (c) subject to the directions, if any, issued by the ⁴⁶[Securities and Exchange Board of India] in this behalf;

(e) the regulation or prohibition of blank transfers;

(f) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(g) the regulation, or prohibition of *budlas* or carry-over facilities;

(h) the fixing, altering or postponing of days for settlements;

(i) the determination and declaration of market rates, including the opening, closing highest and lowest rates for securities;

(j) the terms, conditions and incidents of contracts, including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing;

(k) the regulation of the entering into, making, performance, recession and termination, of contracts, including contracts between members or between a member and his constituent or between a member and a person who is not a member, and the consequences of default or insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer, and the responsibility of members who are not parties to such contracts;

(l) the regulation of *taravani* business including the placing of limitations thereon;

(m) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities;

(n) the method and procedure for the settlement of claims or disputes, including settlement by arbitration;

(o) the levy and recovery of fees, fines and penalties;

(p) the regulation of the course of business between parties to contracts in any capacity;

(q) the fixing of a scale of brokerage and other charges;

(r) the making, comparing, settling and closing of bargains;

(s) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or cornering or otherwise, and the exercise of powers in

⁴⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992,

Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁶ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

such emergencies, including the power to fix maximum and minimum prices for securities;

(*t*) the regulation of dealings by members for their own account;

(*u*) the separation of the functions of jobbers and brokers;

(*v*) the limitations on the volume of trade done by any individual member in exceptional circumstances;

(*w*) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

(3) The bye-laws made under this section may—

(*a*) specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void under sub-section (1) of section 14;

(*b*) provide that the contravention of any of the bye-laws shall render the member concerned liable to one or more of the following punishments, namely :—

(*i*) fine,

(*ii*) expulsion from membership,

(*iii*) suspension from membership for a specified period,

(*iv*) any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and, when approved by the ⁴⁷[Securities and Exchange Board of India], shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and shall have effect as from the date of its publication in the Gazette of India :

Provided that if the ⁴⁸[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-law should be made immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

⁴⁷ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁴⁸ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Power of ⁴⁹[Securities and Exchange Board of India] to make or amend bye-laws of recognised stock exchanges.

10. (1) The ⁵⁰[Securities and Exchange Board of India] may, either on a request in writing received by it in this behalf from the governing body of a recognised stock exchange or on its own motion, if it is satisfied after consultation with the governing body of the stock exchange that it is necessary or expedient so to do and after recording its reasons for so doing, make bye-laws for all or any of the matters specified in section 9 or amend any bye-laws made by such stock exchange under that section.

(2) Where in pursuance of this section any bye-laws have been made or amended the bye-laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised stock exchange is situate, and on the publication thereof in the Gazette of India, the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised stock exchange concerned.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised stock exchange objects to any bye-laws made or amended under this section by the ⁵¹[Securities and Exchange Board of India] on its own motion, it may, within ⁵²[two months] of the publication thereof in the Gazette of India under subsection

(2), apply to the ⁵³[Securities and Exchange Board of India] for revision thereof, and the ⁵⁴[Securities and Exchange Board of India] may, after giving an opportunity to the governing body of the stock exchange to be heard in the matter, revise the bye-laws so made or amended, anywhere any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the byelaws so revised shall be published and shall become effective as provided in subsection (2).

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

⁴⁹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁰ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵¹ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵² Substituted for "six months" by the Securities Laws (Amendment) Act, 1995, Sec 20, w.e.f. 25-01-1995.

⁵³ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁴ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

Provided that if the ⁵⁵[Securities and Exchange Board of India] is satisfied in any case that in the interest of the trade or in the public interest any bye-laws should be made, amended or revised immediately, it may, by order in writing specifying the reasons therefor, dispense with the condition of previous publication.

Power of Central Government⁵⁶ to supersede governing body of a recognised stock exchange.

11. (1) Without prejudice to any other powers vested in the Central Government under this Act, where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, notwithstanding anything contained in any other law for the time being in force, in the Central Government may serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice and after giving an opportunity to the governing body to be

heard in the matter, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and, where more persons than one are appointed, may appoint one of such persons to be the chairman and another to be the vice-chairman thereof.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely:—

(a) the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

(b) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

(c) all such property of the recognised stock exchange as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry on the business of the stock exchange, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the recognised stock exchange the governing body of which is superseded under sub-section (1), the person or persons appointed under that subsection

shall hold office for such period as may be specified in the notification published under that sub-section and the Central Government may from time to time, by like notification, vary such period.

⁵⁵ Substituted for "Central Government" by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992.

⁵⁶ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

(4) The Central Government may at any time before the determination of the period of office of any person or persons appointed under this section call upon the recognised stock exchange to re-constitute the governing body in accordance with its rules and on such re-constitution all the property of the recognised stock exchange which has vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall re-vest or vest, as the case may be, in the governing body so re-constituted :

Provided that until a governing body is so re-constituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

Powers⁵⁷ to suspend business of recognised stock exchanges.

12. If in the opinion of the Central Government an emergency has arisen and for the purpose of meeting the emergency the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and, if, in the opinion of the Central Government, the interest of

the trade or the public interest requires that the period should be extended, may, by like notification extend the said period from time to time :

Provided that where the period of suspension is to be extended beyond the first period, no notification extending the period of suspension shall be issued unless the governing body of the ⁵⁸[recognised stock exchange] has been given an opportunity of being heard in the matter.

⁵⁹**[Power to issue directions.**

12A. If, after making or causing to be made an inquiry, the Securities and Exchange Board of India is satisfied that it is necessary—

- (a) in the interest of investors, or orderly development of securities market; or
- (b) to prevent the affairs of any recognised stock exchange or clearing corporation, or such other agency or person, providing trading or clearing or settlement facility in respect of securities, being conducted in a manner detrimental to the interests of investors or securities market; or
- (c) to secure the proper management of any such stock exchange or clearing corporation or agency or person, referred to in clause (b),

⁵⁷ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992.

⁵⁸ Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁵⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 6, w.r.e.f. 12-10-2004.

it may issue such directions,—

(i) to any stock exchange or clearing corporation or agency or person referred to in clause (b) or any person or class of persons associated with the securities market; or

(ii) to any company whose securities are listed or proposed to be listed in a recognised stock exchange,

as may be appropriate in the interests of investors in securities and the securities market.]

⁶⁰**[Explanation- For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]**

CONTRACTS AND OPTIONS IN SECURITIES

Contracts in notified areas illegal in certain circumstances.

13. If the Central Government⁶¹ is satisfied, having regard to the nature or the volume of transactions in securities in any ⁶²[State or States or area] that it is necessary so to do, it may, by notification in the Official Gazette, declared this section to apply to such ⁶³[State or States or area], and thereupon every contract in such ⁶⁴[State or States or area] which is entered into after the date of the notification otherwise than ⁶⁵[between members of a recognised stock exchange or recognised stock exchanges] in such ⁶⁶[State or States or area] or through or with such member shall be illegal :

⁶⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁶¹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁶² Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶³ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁴ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004 for “between members of a recognised stock exchange”.

⁶⁶ Substituted for “State or area” by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁷ **[Provided** that any contract entered into between members of two or more recognised stock exchanges in such State or States or area, shall—

(i) be subject to such terms and conditions as may be stipulated by the respective stock exchanges with prior approval of Securities and Exchange Board of India;

(ii) require prior permission from the respective stock exchanges if so stipulated by the stock exchanges with prior approval of Securities and Exchange Board of India.]

⁶⁸ **[Additional trading floor.**

13A. A stock exchange may establish additional trading floor with the prior approval of the Securities and Exchange Board of India in accordance with the terms and conditions stipulated by the said Board.

Explanation : For the purposes of this section, “additional trading floor” means a trading ring or trading facility offered by a recognised stock exchange outside its area of operation to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.]

Contracts in notified areas to be void in certain circumstances.

14. (1) Any contract entered into in any State or area specified in the notification under section 13 which is in contravention of any of the bye-laws specified in that behalf under clause (a) of sub-section (3) of section 9 shall be void :

(i) as respects the rights of any member of the recognised stock exchange who has entered into such contract in contravention of any such bye-law, and also

(ii) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(2) Nothing in sub-section (1) shall be construed to affect the right of any person other than a member of the recognised stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transaction was in contravention of any of the bye-laws specified in clause (a) of sub-section (3) of section 9.

Members may not act as principals in certain circumstances.

15. No member of a recognised stock exchange shall in respect of any securities enter into any contract as a principal with any person other than a member of a recognised stock exchange, unless he has secured the consent or authority of such

⁶⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 7, w.r.e.f. 12-10-2004.

⁶⁸ Inserted by the Securities Laws (Amendment) Act, 1995, Sec 21, w.e.f. 25-01-1995.

person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure written confirmation by such person or such consent or authority within three days from the date of the contract :

Provided further that no such written consent or authority of such person shall be necessary for closing out any outstanding contract entered into by such person in accordance with the bye-laws, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

Power⁶⁹ to prohibit contracts in certain cases.

16. (1) If the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.

(2) All contracts in contravention of the provisions of sub-section (1) entered into after the date of notification issued thereunder shall be illegal.

Licensing of dealers in securities in certain areas.

17. (1) Subject to the provisions of sub-section (3) and to the other provisions contained in this Act, no person shall carry on or purport to carry on, whether on his own behalf or on behalf of any other person, the business of dealing in securities in any State or area to which section 13 has not been declared to apply and to which the Central Government may, by notification in the Official Gazette, declare this section to apply, except under the authority of a ⁷⁰[licence granted by the Securities and Exchange Board of India] in this behalf.

(2) No notification under sub-section (1) shall be issued with respect to any State or area unless the Central Government is satisfied, having regard to the manner in which securities are being dealt with in such State or area, that it is desirable or

⁶⁹ Powers are exercisable by SEBI also *vide* S. O. 573 (E), Dated 30-07-1992, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 30-07-1992. Powers are exercisable by RBI also *vide* Government of India Notification No. 183 (E), Dated 01-03-2000 in relation to any contracts in government securities, money market securities etc.

⁷⁰ Substituted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 for "licence granted by the Central Government".

expedient in the interest of the trade or in the public interest that such dealings should be regulated by a system of licensing.

(3) The restrictions imposed by sub-section (1) in relation to dealings in securities shall not apply to the doing of anything by or on behalf of a member of any recognised stock exchange.

71[Public issue and listing of securities referred to in sub-clause (ie) of clause (h) of section 2.

17A. (1) Without prejudice to the provisions contained in this Act or any other law for the time being in force, no securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 shall be offered to the public or listed on any recognised stock exchange unless the issuer fulfils such eligibility criteria and complies with such other requirements as may be specified by regulations made by the Securities and Exchange Board of India.

(2) Every issuer referred to in sub-clause (ie) of clause (h) of section 2 intending to offer the certificates or instruments referred therein to the public shall make an application, before issuing the offer document to the public, to one or more recognised stock exchanges for permission for such certificates or instruments to be listed on the stock exchange or each such stock exchange.

(3) Where the permission applied for under sub-section (2) for listing has not been granted or refused by the recognised stock exchanges or any of them, the issuer shall forthwith repay all moneys, if any, received from applicants in pursuance of the offer document, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director or trustee thereof, as the case may be, who is in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

Explanation.—In reckoning the eighth day after another day, any intervening day which is a public holiday under the Negotiable Instruments Act, 1881 (26 of 1881), shall be disregarded, and if the eighth day (as so reckoned) is itself such a public holiday, there shall for the said purposes be substituted the first day thereafter which is not a holiday.

(4) All the provisions of this Act relating to listing of securities of a public company on a recognised stock exchange shall, mutatis mutandis, apply to the listing of the securities of the nature referred to in sub-clause (ie) of clause (h) of section 2 by the issuer, being a special purpose distinct entity.]

⁷¹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 3, w.e.f. 28-05-2007.

Exclusion of spot delivery contracts from sections 13, 14, 15 and 17.

18. (1) Nothing contained in sections 13, 14, 15 and 17 shall apply to spot delivery contracts.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government⁷² is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control the business of dealing in spot delivery contracts also in any State or area (whether section 13 has been declared to apply to that State or area or not), it may, by notification in the Official Gazette, declare that the provisions of section 17 shall also apply to such State or area in respect of spot delivery contracts generally or in respect of spot delivery contracts for the sale or purchase of such securities as may be specified in the notification, and may also specify the manner in which, and the extent to which, the provisions of that section

shall so apply.

⁷³[**Contracts in derivative.**

18A. Notwithstanding anything contained in any other law for the time being in force, contracts in derivative shall be legal and valid if such contracts are—

(a) traded on a recognised stock exchange;

(b) settled on the clearing house of the recognised stock exchange, in accordance with the rules and bye-laws of such stock exchange.]

Stock exchanges other than recognised stock exchanges prohibited.

19. (1) No person shall, except with the permission of the Central Government, organise or assist in organising or be a member of any stock exchange (other than a recognised stock exchange) for the purpose of assisting in, entering into or performing any contracts in securities.

(2) This section shall come into force in any State or area on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of options in securities.

20. ⁷⁴[*****]

⁷² Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁷³ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 3, w.e.f. 22-2-2000.

⁷⁴ Omitted by the Securities Laws (Amendment) Act, 1995, Sec 22, w.e.f. 25-01-1995. Prior to omission, section 20 read as under :

“20. *Prohibition of options in securities.*—(1) Notwithstanding anything contained in this Act or in

any other law for the time being in force, all options in securities entered into after the commencement of this Act shall be illegal.

LISTING OF SECURITIES ⁷⁵[***]

⁷⁶[**Conditions for listing.**

21. Where securities are listed on the application of any person in any recognised stock exchange, such person shall comply with the conditions of the listing agreement with that stock exchange.]

⁷⁷[**Delisting of securities.**

21A. (1) A recognised stock exchange may delist the securities, after recording the reasons therefor, from any recognised stock exchange on any of the ground or grounds as may be prescribed under this Act :

Provided that the securities of a company shall not be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) A listed company or an aggrieved investor may file an appeal before the Securities Appellate Tribunal against the decision of the recognised stock exchange delisting the securities within fifteen days from the date of the decision of the recognised stock exchange delisting the securities and the provisions of sections 22B to 22E of this Act, shall apply, as far as may be, to such appeals :

Provided that the Securities Appellate Tribunal may, if it is satisfied that the company was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding one month.]

(2) Any option in securities which has been entered into before such commencement and which remains to be performed, whether wholly or in part, after such commencement shall, to that

extent, become void.”

⁷⁵ Words “BY PUBLIC COMPANIES” omitted by the Securities Laws (Amendment) Act, 1999, Sec 4, w.e.f. 22-02-2000.

⁷⁶ Substituted by the Securities Laws (Amendment) Act, 1995, Sec 33, w.e.f. 25-01-1995. Prior to substitution, section 21 read as under :

“21. *Power to compel listing of securities by public companies.*—Notwithstanding anything contained in any other law for the time being in force, if the Securities and Exchange Board of India is of opinion, having regard to the nature of the securities issued by any public company as defined in the Companies Act, 1956 (1 of 1956), or to the dealings in them, that it is necessary or expedient in the interest of the trade or in the public interest so to do, it may require the company, after giving it an opportunity of being heard in the matter, to comply with such requirements as may be prescribed with respect to the listing of its securities on any recognised stock exchange.”

⁷⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 8, w.r.e.f. 12-10-2004.

⁷⁸**[Right of appeal against refusal of stock exchanges to list securities of public companies.**

⁷⁹**22.** Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company ⁸⁰[or collective investment scheme], the company ⁸¹[or scheme] shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (1 of 1956) (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange, or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government] :

⁸²**[Provided** that no appeal shall be preferred against refusal, omission or failure, as the case may be, under this section on and after the commencement of the Securities Laws (Second Amendment) Act, 1999.]

⁸³**[Right of appeal to Securities Appellate Tribunal against refusal of stock exchange to list securities of public companies.**

⁷⁸ Substituted by The Companies (Amendment) Act, 1974 (Act No. 41 of 1974), Sec 42, w.e.f. 01-

02-1975.

⁷⁹ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the

Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

⁸⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.; Substituted by The Repealing and Amending Act, 1974 (Act No. 56 of 1974), Sec 3 and Sch II, for "recognized association" w.e.f. 20-12-1974.

⁸¹ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 5, w.e.f. 22-02-2000.

⁸² Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 4, w.e.f. 16-12-1999.

⁸³ Sections 22A, 22B, 22C, 22D, 22E and 22F inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999. Earlier section 22A was inserted by The **22A.** (1) Where a recognised stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (1 of 1956), (hereafter in this section referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Securities Appellate Tribunal may, on sufficient cause being shown, allow, appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be, and thereupon the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard,—

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the Securities Appellate Tribunal sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be in such form and be accompanied by such fee as may be prescribed.

(3) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(4) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

⁸⁴[Procedure and powers of Securities Appellate Tribunal.

22B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 2, w.e.f. 17-01-

1986, and omitted by the Depositories Act, 1996, Sec 30 and Sch., Pt.III, w.r.e.f. 20-09-1995.

⁸⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) receiving evidence on affidavits ;
- (d) issuing commissions for the examination of witnesses or documents ;
- (e) reviewing its decisions ;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

⁸⁵[Right to legal representation.

22C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

- (a) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) “cost accountant” means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) “legal practitioner” means an advocate, *vakil* or an attorney of any High Court, and includes a pleader in practice.]

⁸⁶[Limitation.

22D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.]

⁸⁷[Civil court not to have jurisdiction.

22E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.]

88[Appeal to Supreme Court.

22F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

PENALTIES AND PROCEDURE

Penalties.

23. (1) Any person who-

⁸⁶ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, w.e.f. 16-12-1999.

⁸⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 9, w.r.e.f. 12-10-2004. Earlier section 22F as inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 5, read as under:-

“22F. Appeal to High Court.-Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

(a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (4) of section 6; or

(b) enters into any contract in contravention of any of the provisions contained in section 13 or section 16; or

(c) contravenes the provisions contained in ⁸⁹[section 17 or section 17A], or section 19; or

⁹⁰ [(d) enters into any contract in derivative in contravention of section 18A or the rules made under section 30;]

(e) owns or keeps a place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes; or

(f) manages, controls, or assists in keeping any place other than that of a recognised stock exchange which is used for the purpose of entering into or performing any contracts in contravention of any of the provisions of this Act or at which contracts are recorded or adjusted or rights or liabilities arising out of contracts are adjusted, regulated or enforced in any manner whatsoever; or

(g) not being a member of a recognised stock exchange or his agent authorised as

such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17 wilfully represents to or induces any person to believe that contracts can be entered into or performed under this Act through him; or

(h) not being a member of a recognised stock exchange or his agent authorised as such under the rules or bye-laws of such stock exchange or not being a dealer in securities licensed under section 17, canvasses, advertises or touts in any manner either for himself or on behalf of any other persons for any business connected with contracts in contravention of any of the provisions of this Act; or

(i) joins, gathers or assists in gathering at any place other than the place of business specified in the bye-laws of a recognised stock exchange any person or persons for making bids or offers or for entering into or performing any contracts in contravention of any of the provisions of this Act;

⁹¹[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which

⁸⁹ Inserted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 4, w.e.f. 28-05-2007 for "section 17".

⁹⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 6, w.e.f. 22-02-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995.

⁹¹ Substituted for "shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both" by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

(2) Any person who enters into any contract in contravention of the provisions contained in section 15 ⁹²[or who fails to comply with the provisions of ⁹³[section 21 or section 21A] or with the orders of] or section 22 ⁹⁴[or with the orders of the Securities Appellate Tribunal] ⁹⁵[shall, without prejudice to any award of penalty by the Adjudicating Officer under this Act, on conviction, be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty-five crore rupees, or with both.]

⁹⁶[Penalty for failure to furnish information, return, etc.

23A. Any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a recognised stock exchange, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

97[Penalty for failure by any person to enter into an agreement with clients.

23B. If any person, who is required under this Act or any bye-laws of a recognised stock exchange made thereunder, to enter into an agreement with his client, fails to enter into such an agreement, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.]

⁹² Substituted for “or who fails to comply with the orders of the Securities and Exchange Board of India under section 21” by the Securities Laws (Amendment) Act, 1995, Sec 24, w.e.f. 25-01-1995. Prior to 1995, “Securities and Exchange Board of India under section 21 or Central Government under section 22” were substituted for “Central Government under section 21 or section 22” *vide* The Schedule, Part II of Securities and Exchange Board of India Act, 1992, w.e.f.

30-01-1992.

⁹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁴ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 6, w.e.f. 16-12-1999.

⁹⁵ Substituted for “shall, on conviction, be punishable with fine which may extend to one thousand rupees” by the Securities Laws (Amendment) Act, 2004, Sec 10, w.r.e.f. 12-10-2004.

⁹⁶ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁷ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

98[Penalty for failure to redress investors’ grievances.

23C. If any stock broker or sub-broker or a company whose securities are listed or proposed to be listed in a recognised stock exchange, after having been called upon by the Securities and Exchange Board of India or a recognised stock exchange in writing, to redress the grievances of the investors, fails to redress such grievances within the time stipulated by the Securities and Exchange Board of India or a recognised stock exchange, he or it shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

99[Penalty for failure to segregate securities or moneys of client or clients.

23D. If any person, who is registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) as a stock broker or sub-broker, fails to segregate securities or moneys of the client or clients or uses the securities or moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees.]

100[Penalty for failure to comply with provision of listing conditions or delisting conditions or grounds.

23E. If a company or any person managing collective investment scheme or mutual fund, fails to comply with the listing conditions or delisting conditions or grounds or commits a breach thereof, it or he shall be liable to a penalty not exceeding twenty-five crore rupees.]

101[Penalty for excess dematerialisation or delivery of unlisted securities.

23F. If any issuer dematerialises securities more than the issued securities of a company or delivers in the stock exchanges the securities which are not listed in the recognised stock exchange or delivers securities where no trading permission has been given by the recognised stock exchange, he shall be liable to a penalty not exceeding twenty-five crore rupees.]

⁹⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

⁹⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰²**[Penalty for failure to furnish periodical returns, etc.**

23G. If a recognised stock exchange fails or neglects to furnish periodical returns to the Securities and Exchange Board of India or fails or neglects to make or amend its rules or bye-laws as directed by the Securities and Exchange Board of India or fails to comply with directions issued by the Securities and Exchange Board of India, such recognised stock exchange shall be liable to a penalty which may extend to twenty-five crore rupees.]

¹⁰³**[Penalty for contravention where no separate penalty has been provided.**

23H. Whoever fails to comply with any provision of this Act, the rules or articles or bye-laws or the regulations of the recognised stock exchange or directions issued by the Securities and Exchange Board of India for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

¹⁰⁴**[Power to adjudicate.**

23-I. (1) For the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, the Securities and Exchange Board of India shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subjectmatter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.]

¹⁰⁵**[Factors to be taken into account by adjudicating officer.**

23J. While adjudging the quantum of penalty under section 23-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

¹⁰² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁴ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁵ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.]

¹⁰⁶**[Settlement of administrative and civil proceedings.**

23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

¹⁰⁷[Recovery of amounts.

23JB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or

fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under Section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a)** attachment and sale of the person's movable property;
- (b)** attachment of the person's bank accounts;
- (c)** attachment and sale of the person's immovable property;
- (d)** arrest of the person and his detention in prison;

¹⁰⁶ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f.

20-04-2007)

¹⁰⁷ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as

may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly

on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to

be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section

12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

¹⁰⁸[Crediting sums realised by way of penalties to Consolidated Fund of India.

23K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

¹⁰⁹[**Appeal to Securities Appellate Tribunal.**

23L. (1) Any person aggrieved, by the order or decision of the recognized stock exchange or the adjudicating officer or any order made by the Securities and Exchange Board of India under section 4B, may prefer an appeal before the Securities Appellate Tribunal and the provisions of sections 22B, 22C, 22D and 22E of this Act, shall apply, as far as may be, to such appeals.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order or decision is received by the

appellant and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned adjudicating officer.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.]

¹¹⁰[Offences.

23M. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws

¹⁰⁸ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹⁰⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹⁰ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

made thereunder, for which no punishment is provided elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.]

¹¹¹[Composition of certain offences.

23N. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.]

¹¹²[Power to grant immunity.

23-O. (1) The Central Government may, on recommendation by the Securities and Exchange Board of India, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Securities and Exchange Board of India under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under

¹¹¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

¹¹² Inserted by the Securities Laws (Amendment) Act, 2004, Sec 11, w.r.e.f. 12-10-2004.

this Act to which such person would have been liable, had not such immunity been granted.]

Offences by companies.

24. (1) Where an offence has been committed by a company, every person who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals, and

¹¹³[(b) “director”, in relation to—

(i) a firm, means a partner in the firm;

(ii) any association of persons or a body of individuals, means any member controlling the affairs thereof.]

¹¹⁴[(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions of section 22A.]

Certain offences to be cognizable.

25. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898)¹¹⁵, any offence punishable under ¹¹⁶[***] section 23 shall be deemed to be a

cognizable offence within the meaning of that Code.

¹¹³ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 7, w.e.f. 22-2-2000. Prior to its

substitution, sub-clause (b) read as under:

‘(b) “director”, in relation to a firm, means a partner in the firm.’

¹¹⁴ Inserted by The Securities Contracts (Regulation) Amendment Act, 1985 (Act No. 40 of 1985), Sec 3, w.e.f. 17-01-1986.

¹¹⁷ **[Cognizance of offences by courts.**

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or a recognised stock exchange or by any person.

¹¹⁸ **[(2)*****]**

¹¹⁹ **[Establishment of Special Courts.**

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of

the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such

commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹¹⁵ See now the Code of Criminal Procedure, 1973 (2 of 1974)

¹¹⁶ Words “sub-section (1) of” omitted by the Securities Laws (Amendment) Act, 2004, w.e.f. 12-10-2004.

¹¹⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 13, w.r.e.f. 12-10-2004. Prior to its substitution section 26 read as under :—

“26. *Jurisdiction to try offences under this Act.*—No court inferior to that of a presidency magistrate

or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.”

¹¹⁸ **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to**

omission, Sub-section (2) read as under:

“No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹¹⁹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

Appeal and Revision.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on

a High Court, as if a Special Court within the local limits of the jurisdiction of the

High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases

taken cognizance by a Court of Session under this Section.]

MISCELLANEOUS

Title to dividends.

27. (1) It shall be lawful for the holder of any security whose name appears on the books of the company issuing the said security to receive and retain any dividend declared by the company in respect thereof for any year, notwithstanding that the said security has already been transferred by him for consideration, unless the transferee who claims the dividend from the transferor has lodged the security and all other documents relating to the transfer which may be required by the company with the company for being registered in his name within fifteen days of the date on which the dividend became due.

***Explanation.*—The period specified in this section shall be extended—**

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the dividend;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security and other documents relating to

the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a company to pay any dividend which has become due to any person whose name is for the time being registered in the books of the company as the holder of the security in respect of which the dividend has become due; or

(b) the right of the transferee of any security to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security in the name of the transferee.

¹²⁰[**Right to receive income from collective investment scheme.**

27A. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by the collective investment scheme, whose name appears on the books of the collective investment scheme issuing the said security to receive and retain any income in respect of units or other instruments issued by the collective investment scheme declared by the collective investment scheme in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the collective investment scheme, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the collective investment scheme from the transfer or has lodged the security and all other documents relating to the transfer which may be required by the collective investment scheme with the collective investment scheme for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the collective investment scheme became due.

Explanation.—The period specified in this section shall be extended—

¹²⁰ Inserted by the Securities Laws (Amendment) Act, 1999, Sec 8, w.e.f. 22-2-2000. Earlier clause

(d) was omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the collective investment scheme;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of the transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the collective investment scheme, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a collective investment scheme to pay any income from units or other instruments issued by the collective investment scheme which has become due to any person whose name is for the time being registered in the books of the collective investment scheme as the holder of the security being

units or other instruments issued by the collective investment scheme in respect of which the income in respect of units or other instruments issued by the collective scheme has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the collective investment scheme, to enforce against the transferor or any other person his rights, if any, in relation to the transfer in any case where the company has refused to register the transfer of the security being units or other instruments issued by the collective investment scheme in the name of the transferee.]

¹²¹[**Right to receive income from mutual fund.**

27B. (1) It shall be lawful for the holder of any securities, being units or other instruments issued by any mutual fund, whose name appears on the books of the mutual fund issuing the said security to receive and retain any income in respect of units or other instruments issued by the mutual fund declared by the mutual fund in respect thereof for any year, notwithstanding that the said security, being units or other instruments issued by the mutual fund, has already been transferred by him for consideration, unless the transferee who claims the income in respect of units or other instruments issued by the mutual fund from the transferor has lodged the security and all other documents relating to the transfer which may be required by the mutual fund with the mutual fund for being registered in his name within fifteen days of the date on which the income in respect of units or other instruments issued by the mutual fund became due.

Explanation.—The period specified in this section shall be extended—

¹²¹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 14, w.r.e.f. 12-10-2004.

(i) in case of death of the transferee, by the actual period taken by his legal representative to establish his claim to the income in respect of units or other instrument issued by the mutual fund;

(ii) in case of loss of the transfer deed by theft or any other cause beyond the control of transferee, by the actual period taken for the replacement thereof; and

(iii) in case of delay in the lodging of any security, being units or other instruments issued by the mutual fund, and other documents relating to the transfer due to causes connected with the post, by the actual period of the delay.

(2) Nothing contained in sub-section (1) shall affect—

(a) the right of a mutual fund to pay any income from units or other instruments issued by the mutual fund which has become due to any person, whose name is for the time being registered in the books of the mutual fund as the holder of the security being units or other instruments issued by the mutual fund in respect of which the income in respect of units or other instruments issued by the mutual fund has become due; or

(b) the right of transferee of any security, being units or other instruments issued by the mutual fund, to enforce against the transferor or any other person, his rights, if any, in relation to the transfer in any case where the mutual fund has refused to register the transfer of the security being units or other instruments issued by the mutual fund in the name of the transferee.]

¹²²[**Act not to apply in certain cases.**

28. (1) The provisions of this Act shall not apply to—

(a) the Government, the Reserve Bank of India, any local authority or any corporation set up by a special law or any person who has effected any transaction with or through the agency of any such authority as is referred to in this clause;

(b) any convertible bond or share warrant or any option or right in relation thereto, in so far as it entitles the person in whose favour any of the foregoing has been issued to obtain at his option from the company or other body corporate, issuing the same or from any of its shareholders or duly appointed agents' shares of the company or other body corporate, whether by conversion of the bond or warrant or otherwise, on the basis of the price agreed upon when the same was issued.

(2) Without prejudice to the provisions contained in sub-section (1), if the Central Government¹²³ is satisfied that in the interests of trade and commerce or the

¹²² Substituted by Securities Contracts (Regulation) Amendment Act, 1959 (Act No. 49 of 1959), Sec 3, w.e.f. 08-12-1959.

economic development of the country it is necessary or expedient so to do, it may, by notification in the Official Gazette, specify any class of contracts as contracts to which this Act or any provision contained therein shall not apply, and also the conditions, limitations or restrictions, if any, subject to which it shall not so apply.]

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office bearer or servant of any recognised stock exchange or against any person or persons appointed under subsection

(1) of section 11 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

¹²⁴[**Power to delegate.**

29A. The Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India or the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934).]

Power to make rules.

30. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the manner in which applications may be made, the particulars which they should contain and the levy of a fee in respect of such applications ;

(b) the manner in which any inquiry for the purpose of recognising any stock exchange may be made, the conditions which may be imposed for the grant of such recognition, including conditions as to the admission of members if the

¹²³ Powers are exercisable by SEBI also *vide* S. O. 672 (E), Dated 13-09-1994, published in the Gazette of India, Extra., Pt. II, Section 3 (ii), Dated 13-09-1994.

¹²⁴ Inserted by Securities and Exchange Board of India Act, 1992, Sec 33 and Schedule, Pt II, w.r.e.f. 30-01-1992 and Substituted by the Securities Laws (Amendment) Act, 1999, Sec 9, w.e.f. 22-02-2000. Prior to its substitution, section 29A read as under :

“29A. *Power to delegate.*—The Central Government may, by order published in the Official Gazette, direct that the powers exercisable by it under any provision of this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the Securities and Exchange Board of India.”

stock exchange concerned is to be the only recognised stock exchange in the area; and the form in which such recognition shall be granted;

(c) the particulars which should be contained in the periodical returns and annual reports to be furnished to the Central Government;

(d) the documents which should be maintained and preserved under section 6 and the periods for which they should be preserved;

(e) the manner in which any inquiry by the governing body of a stock exchange shall be made under section 6;

(f) the manner in which the bye-laws to be made or amended under this Act shall before being so made or amended be published for criticism;

(g) the manner in which applications may be made by dealers in securities for licences under section 17, the fee payable in respect thereof and the period of such licences, the conditions subject to which licences may be granted, including conditions relating to the forms which may be used in making contracts, the documents to be maintained by licensed dealers and the furnishing of periodical information to such authority as may be specified and the revocation of licences for breach of conditions;

¹²⁵[(h) the requirements which shall be complied with—

(A) by public companies for the purpose of getting their securities listed on any stock exchange;

(B) by collective investment scheme for the purpose of getting their units listed on any stock exchange;] ¹²⁶[***]

¹²⁷[(ha) the grounds on which the securities of a company may be delisted from any recognised stock exchange under sub-section (1) of section 21A;

(hb) the form in which an appeal may be filed before the Securities Appellate Tribunal under sub-section (2) of section 21A and the fees payable in respect of such appeal;

(hc) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal;

¹²⁵ Substituted by the Securities Laws (Amendment) Act, 1999, Sec 10, w.e.f. 22-02-2000. Prior to

its substitution, clause (h) read as under :

“(h) the requirements which shall be complied with by public companies for the purpose of getting their securities listed on any stock exchange;”

¹²⁶ The word "and" omitted by The Securities Contracts (Regulation) Amendment Act, 1985, Sec 4, w.e.f. 17-01-1986.

¹²⁷ Substituted for clause (ha) by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Earlier clause (ha), as amended by the Securities Laws (Amendment) Act, 1999, read as

under :—

“(ha) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 22A and the fees payable in respect of such appeal; and”

(hd) the manner of inquiry under sub-section (1) of section 23-I;

(he) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23L and the fees payable in respect of such appeal;]

(i) any other matter which is to be or may be prescribed.

¹²⁸[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

¹²⁹[**Power of Securities and Exchange Board of India to make regulations.**

31. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

¹³⁰[(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

¹²⁸ Substituted by the Securities Laws (Amendment) Act, 2004, Sec 15, w.r.e.f. 12-10-2004. Prior to its substitution, sub-section (3), as amended by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995, read as under :

“(3) Every rule made under this section shall, as soon as may be, after its publication in the Official Gazette, be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

¹²⁹ Inserted by the Securities Laws (Amendment) Act, 2004, Sec 16, w.r.e.f. 12-10-2004. Earlier it was repealed by the Repealing and Amending Act, 1960, Sec 2 and First Sch. w.e.f. 28-12-1960.

¹³⁰ Substituted by the Securities Contracts (Regulation) Amendment Act, 2007, Sec 5, w.e.f. 28-05-2007. Prior to substitution it read as under :

“(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section.”

(a) the manner, in which at least fifty-one per cent of equity share capital of a recognised stock exchange is held within twelve months from the date of

publication of the order under sub-section (7) of section 4B by the public other than the shareholders having trading rights under sub-section (8) of that section;

(b) the eligibility criteria and other requirements under section 17A.]

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

DEPOSITORIES ACT, 1996

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SCHEDULE

AMENDMENT TO CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001.]

DEPOSITORIES ACT, 1996

[22 OF 1996]

[10th August, 1996]

An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September, 1995.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—
 - (a) “beneficial owner” means a person whose name is recorded as such with a depository;
 - (b) “Board” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (c) “bye-laws” means bye-laws made by a depository under section 26;
 - (d) “Company Law Board” means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
 - (e) “depository” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (f) “issuer” means any person making an issue of securities;
 - (g) “participant” means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (h) “prescribed” means prescribed by rules made under this Act;
 - (i) “record” includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
 - (j) “registered owner” means a depository whose name is entered as such in the register of the issuer;
 - (k) “regulations” means the regulations made by the Board;
 - ¹[(ka) “Securities Appellate Tribunal” means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]
 - (l) “security” means such security as may be specified by the Board;
 - (m) “service” means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956), or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

CERTIFICATE OF COMMENCEMENT OF BUSINESS

Certificate of commencement of business by depositories.

3. (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board.
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations.
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions :

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

¹ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec 13, w.e.f. 16-12-1999.

CHAPTER III

RIGHTS AND OBLIGATIONS OF DEPOSITORIES, PARTICIPANTS, ISSUERS AND BENEFICIAL OWNERS

Agreement between depository and participant.

4. (1) A depository shall enter into an agreement with one or more participants as its agent.
(2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

Services of depository.

5. Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

Surrender of certificate of security.

6. (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
(2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
(3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred to in sub-section (1) in its records, as the beneficial owner.

Registration of transfer of securities with depository.

7. (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
(2) If a beneficial owner or a transferee of any security seeks to have custody of such security the depository shall inform the issuer accordingly.

Options to receive security certificate or hold securities with depository.

8. (1) Every person subscribing to securities offered by an issuer shall have the option either to receive the security certificates or hold securities with a depository.
(2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

Securities in depositories to be in fungible form.

9. (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.

2[(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956), shall apply to a depository in respect of securities held by it on behalf of the beneficial owners.]

Rights of depositories and beneficial owner.

10. (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
(2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
(3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

Register of beneficial owner.

11. Every depository shall maintain a register and an index of beneficial owners in the

manner provided in sections 150, 151 and 152 of the Companies Act, 1956 (1 of 1956).

Pledge or hypothecation of securities held in a depository.

12. (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.

(2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.

(3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

Furnishing of information and records by depository and issuer.

13. (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.

(2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

Option to opt out in respect of any security.

² Substituted by the Depositories Related Laws (Amendment) Act, 1997, Sec 22, w.e.f. 15-01-1997. Prior to its substitution sub-section (2) read as under :

“(2) Nothing contained in sections 153, 153A, 153B, 187B, 187C and 372 of the Companies Act, 1956 (1 of 1956) shall apply to the securities held by a depository on behalf of the beneficial owners.”

14. (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.

(2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.

(3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

Act 18 of 1891 to apply to depositories.

15. The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

Depositories to indemnify loss in certain cases.

16. (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.

(2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

Rights and obligations of depositories, etc.

17. (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuers whose securities are dealt with by a depository shall be specified by the regulations.

(2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

CHAPTER IV

ENQUIRY AND INSPECTION

Power of Board to call for information and enquiry.

18. (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing,—

(a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
(b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

(2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject-matter of such enquiry or inspection.

Power of Board to give directions in certain cases.

19. Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary—

(i) in the interest of investors, or orderly development of securities market; or
(ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market,

it may issue such directions,—

(a) to any depository or participant or any person associated with the securities market; or
(b) to any issuer,

as may be appropriate in the interest of investors or the securities market.

³[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

⁴[Penalty for failure to furnish information, return, etc.

19A. Any person, who is required under this Act or any rules or regulations or bye-laws made thereunder,—

(a) to furnish any information, document, books, returns or report to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or bye-laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 17, w.r.e.f. 12-10-2004.**

Penalty for failure to enter into an agreement.

19B. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

Penalty for failure to redress investors' grievances.

19C. If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agents or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for delay in dematerialisation or issue of certificate of securities.

19D. If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992),

fails to dematerialise or issue the certificate of securities on opting out of a depository by the investors, within the time specified under this Act or regulations or bye-laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to reconcile records.

19E. If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with

all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for failure to comply with directions issued by Board under section 19 of the Act.

19F. If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

Penalty for contravention where no separate penalty has been provided.

19G. Whoever fails to comply with any provision of this Act, the rules or the regulations or bye-laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

Power to adjudicate.

19H. (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G,

the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the

sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by adjudicating officer.

19-I. While adjudging the quantum of penalty under section 19H, the adjudicating officer shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

5] Settlement of Administrative Civil Proceedings.

19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19, section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults,

agree to the proposal for settlement, on payment of such sum by the defaulter or on such

⁵ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer, as the case may be, under this section.]

6] Recovery of amounts.

19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under Section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and

Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank

accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or

son's wife or son's minor child, otherwise than for adequate consideration, and which is held

by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his

son's minor child is concerned, it shall, even after the date of attainment of majority by such

minor child or son's minor child, as the case may be, continue to be included in the person's

⁶ Inserted by The Securities Laws (Amednment) Ordinance, 2013 w.e.f. 18-07-2013

movable or immovable property or monies held in bank accounts for recovering any amount

due from the person under this Act.

Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 23A of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means

any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Crediting sums realised by way of penalties to Consolidated Fund of India.

19J. All sums realized by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

CHAPTER V

PENALTY

⁷**[Offences.**

20. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

⁷ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 18, w.r.e.f. 12-10-2004. Prior to its substitution, section 20 read as under:—

"20. *Offences.*— Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or any regulations or bye-laws made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both."

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with

fine, which may extend to twenty-five crore rupees, or with both.]

Offences by companies.

21. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

8[Cognizance of offences by courts.

22. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central
§ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 19, w.r.e.f. 12-10-2004. Prior to its substitution, section 22 read as under:—

“22. *Cognizance of offences by courts.*—(1) No Court shall take cognizance of any offence punishable under this Act or any regulations or bye-laws made thereunder, save on a complaint made by the Board.

(2) No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the first class shall try any offence punishable under this Act.”

Government or State Government or the Securities and Exchange Board of India or by any person.

9[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.] Composition of certain offences.

22A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

22B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹⁰[**Establishment of Special Courts.**

22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

⁹ Prior to omission, Sub-section(2) read “No court inferior to that of a Court of Session shall try any offence punishable under this Act.”

¹⁰ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is,

immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws

(Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken

cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Appeal and Revision

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of

the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period

of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code to transfer any case or class of cases taken cognizance by

a Court of Session under this Section.]

Appeals.

23. (1) Any person aggrieved by an order of the Board made ¹¹[before the commencement of the Securities Laws (Second Amendment) Act, 1999] under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹²[Appeal to Securities Appellate Tribunal.

23A. (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act, or the regulations made thereunder, ¹³[or by an order made by an adjudicating officer under this Act] may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

¹⁴[(2) Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013.]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed :

¹¹ Substituted by the Securities Laws (Second Amendment) Act, 1999, Sec. 14, w.e.f. 16-12-1999 for "an order of the Board made".

¹² Sections 23A to 23F inserted by the Securities Laws (Second Amendment) Act, 1999 , Sec. 15, w.e.f. 16-12-1999.

¹³ Inserted by the Securities Laws (Amendment) Act, 2004, Sec. 20, w.r.e.f. 12-10-2004.

¹⁴ **Prior to omission, Sub-section (2) read as under:**

"No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties."

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of Securities Appellate Tribunal.

23B. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

Right to legal representation.

23C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection

(1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or an attorney of any High Court, and

includes a pleader in practice.

Limitation.

23D. The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

Civil court not to have jurisdiction.

23E. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

¹⁵**[Appeal to Supreme Court.**

23F. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

¹⁵ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 21, w.r.e.f. 12-10-2004. Prior to its substitution, Section 23F, as inserted by Securities Laws (Second Amendment) Act, 1999, w.e.f. 16-12-1999, read as under:—

“23F. *Appeal to High Court.*—Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]]

Power of Central Government to make rules.

24. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

¹⁶[(a) the manner of inquiry under sub-section (1) of section 19H;

(aa) the time within which an appeal may be preferred under sub-section (1) of section 23;]

(b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal ;

(c) the procedure for disposing of an appeal under sub-section (4) of section 23;

¹⁷[(d) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.]

Power of Board to make regulations.

25. (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board may, by notification in the Official

Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;

(b) the form in which the certificate of commencement of business shall be issued under

sub-section (2) of section 3;

(c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;

(d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

(e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;

¹⁶ Substituted by the Securities Laws (Amendment) Act, 2004, Sec. 22, w.r.e.f. 12-10-2004. Prior to its substitution, clause (a) read as under:—

“(a) the time within which an appeal may be preferred under sub-section (1) of section 23;”

¹⁷ Inserted by the Securities Laws (Second Amendment) Act, 1999, Sec. 16, w.e.f. 16-12-1999.

(f) the rights and obligations of the depositories, participants and the issuers under subsection (1) of section 17;

(g) the eligibility criteria for admission of securities into the depository under sub-section (2) of section 17.

Power of depositories to make bye-laws.

26. (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such byelaws shall provide for—

(a) the eligibility criteria for admission and removal of securities in the depository;

(b) the conditions subject to which the securities shall be dealt with;

(c) the eligibility criteria for admission of any person as a participant;

(d) the manner and procedure for dematerialisation of securities;

(e) the procedure for transactions within the depository;

(f) the manner in which securities shall be dealt with or withdrawn from a depository;

(g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;

(h) the conditions of admission into and withdrawal from a participant by a beneficial owner;

(i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;

(j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;

(k) the manner of creating pledge or hypothecation in respect of securities held with a depository;

(l) *inter se* rights and obligations among the depository, issuer, participants, and beneficial owners;

(m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;

(n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;

(o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;

(p) the internal control standards including procedure for auditing, reviewing and monitoring.

(3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.

(4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

Removal of difficulties.

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain enactments.

30. [*Repealed by Repealing & Amending Act, 2001.*]

Repeal and saving.

31. (1) The Depositories (Third) Ordinance, 1996 (Ord. 28 of 1996), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE

[*See section 30*]

AMENDMENTS TO CERTAIN ENACTMENTS

[*Repealed by Repealing & Amending Act, 2001.*]

1

SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

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SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

[15 OF 1992]

[4th April, 1992]

An Act to provide for the establishment of a Board to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows :

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Securities and Exchange Board of India Act, 1992.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 30th day of January, 1992.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Board” means the Securities and Exchange Board of India established under section 3;

(b) “Chairman” means the Chairman of the Board;

¹[(b) “collective investment scheme” means any scheme or arrangement which satisfies the conditions specified in section 11AA;]

(c) “existing Securities and Exchange Board” means the Securities and Exchange Board of India constituted under the Resolution of the Government of India in the Department of Economic Affairs No. 1(44) SE/86, dated the 12th day of April, 1988;

(d) “Fund” means the Fund constituted under section 14;

(e) “member” means a member of the Board and includes the Chairman;

(f) “notification” means a notification published in the Official Gazette;

(g) “prescribed” means prescribed by rules made under this Act;

¹ Inserted by the Securities Laws (Amendment) Act, 1999, w.e.f. 22-2-2000.

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(h) “regulations” means the regulations made by the Board under this Act;

¹[(h) “Reserve Bank” means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);]

(i) “securities” has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

²[(2) Words and expressions used and not defined in this Act but defined in the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ³[or the Depositories Act, 1996], shall have the meanings respectively assigned to them in that Act].

CHAPTER II

ESTABLISHMENT OF THE SECURITIES AND EXCHANGE BOARD OF INDIA

Establishment and incorporation of Board.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board by the name of the Securities and Exchange Board of India.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Board shall be at Bombay.

(4) The Board may establish offices at other places in India.

Management of the Board.

4. (1) The Board shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the ⁴[Ministry] of the Central Government dealing with Finance ⁵[and administration of the Companies Act, 1956 (1 of 1956)];

(c) one member from amongst the officials of ⁶[the Reserve Bank];

⁷[(d) five other members of whom at least three shall be the whole-time members,] to be appointed by the Central Government.

¹ Inserted by the Securities Laws (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-01-1995. Prior to its substitution, sub-section (2) reads as under:

“(2) Words and expressions used and not defined in this Act but defined in the Capital Issues (Control) Act, 1947 or the Securities Contracts Regulation Act, 1956 shall have the same meanings respectively assigned to them in those Acts.”

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

⁴ Substituted for “Ministries” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “and law”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act 1934 (2 of 1934)”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁷ Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, clause (d) read as: “(d) two other members”.

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(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the ¹[Reserve Bank] respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board.

Term of office and conditions of service of Chairman and members of the Board.

5. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 4 shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of

sub-section (1) of section 4, at any time before the expiry of the period prescribed under subsection

(1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

Removal of member from office.

6. ²[* * *] The Central Government shall remove a member from office if he—

(a) is, or at any time has been, adjudicated as insolvent;

(b) is of unsound mind and stands so declared by a competent court;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;

(d) ³[* * *]

(e) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

¹ Substituted for "Reserve Bank of India" by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² "(1)" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ Omitted, by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to omission clause (d) read as: "(d) is appointed as a director of a company".

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Meetings.

7. (1) The Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairman or, if for any reason, he is unable to attend a meeting of the Board, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority votes of the members present and voting, and, in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

¹[Member not to participate in meetings in certain cases.

7A. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Board, and the member shall not take any part in any deliberation or decision of the Board with respect to that matter.]

Vacancies, etc., not to invalidate proceedings of Board.

8. No act or proceeding of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board; or

(b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Officers and employees of the Board.

9. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The term and other conditions of service of officers and employees of the Board appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

TRANSFER OF ASSETS, LIABILITIES, ETC., OF THE EXISTING SECURITIES AND EXCHANGE BOARD TO THE BOARD

Transfer of assets, liabilities, etc., of existing Securities and Exchange Board to the Board.

10. (1) On and from the date of establishment of the Board,—

(a) any reference to the existing Securities and Exchange Board in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(b) all properties and assets, movable and immovable, of, or belonging to, the existing Securities and Exchange Board, shall vest in the Board;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

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(c) all rights and liabilities of the existing Securities and Exchange Board shall be transferred to, and be the rights and liabilities of, the Board;

(d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Securities and Exchange Board immediately before that date, for or in connection with the purpose of the said existing Board shall be deemed to have been incurred, entered into, or engaged to be done by, with or for, the Board;

(e) all sums of money due to the existing Securities and Exchange Board immediately before that date shall be deemed to be due to the Board;

(f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Securities and Exchange Board immediately before that date may be continued or may be instituted by or against the Board; and

(g) every employee holding any office under the existing Securities and Exchange Board immediately before that date shall hold his office in the Board by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Board had not been established and shall continue to do so as an employee of the Board or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Board within such period.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, absorption of any employee by the Board in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

CHAPTER IV

POWERS AND FUNCTIONS OF THE BOARD

Functions of Board.

11. (1) Subject to the provisions of this Act, it shall be the duty of the Board to protect the interests of investors in securities and to promote the development of, and to regulate the securities market, by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—

(a) regulating the business in stock exchanges and any other securities markets;

(b) registering and regulating the working of stock brokers, sub-brokers, share transfer agents, bankers to an issue, trustees of trust deeds, registrars to an issue, merchant bankers, underwriters, portfolio managers, investment advisers and such other intermediaries who may be associated with securities markets in any manner;

¹[(ba) registering and regulating the working of the depositories, ²[participants], custodians of securities, foreign institutional investors, credit rating agencies and such other intermediaries as the Board may, by notification, specify in this behalf;]

(c) registering and regulating the working of ¹[venture capital funds and collective

investment schemes], including mutual funds;

¹ Inserted by Securities Laws (Amendment) Act 1995, w.r.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-9-1995.

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(d) promoting and regulating self-regulatory organisations;

(e) prohibiting fraudulent and unfair trade practices relating to securities markets;

(f) promoting investors' education and training of intermediaries of securities markets;

(g) prohibiting insider trading in securities;

(h) regulating substantial acquisition of shares and take over of companies;

(i) calling for information from, undertaking inspection, conducting inquiries and audits of the ²[stock exchanges, mutual funds, other persons associated with the securities market], intermediaries and self-regulatory organisations in the securities market;

³**[(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;]**

⁴**[(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:**

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;]

(j) performing such functions and exercising such powers under the provisions of ⁵[* * *] the Securities Contracts (Regulation) Act, 1956 (42 of 1956), as may be delegated to it by the Central Government;

(k) levying fees or other charges for carrying out the purposes of this section;

(l) conducting research for the above purposes;

⁶**[(la) calling from or furnishing to any such agencies, as may be specified by the Board, such information as may be considered necessary by it for the efficient discharge of its functions;]**

(m) performing such other functions as may be prescribed.

⁷**[(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board**

¹ Substituted for "collective investment schemes" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "stock exchanges and" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

³ **Substituted for "calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board" by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Earlier Section 11(2)(ia) was inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 06-03-1998)**

⁵ The words "the Capital Issues (Control) Act, 1947 (29 of 1947) and" omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

has reasonable grounds to believe that such company has been indulging in insider trading or fraudulent and unfair trade practices relating to securities market.]

¹[(3) Notwithstanding anything contained in any other law for the time being in force while exercising the powers under ²[clause (i) or clause (ia) of sub-section (2) or sub-section (2A)], the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by the Board;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of any person referred to in section 12, at any place;]

³[(iv) inspection of any book, or register, or other document or record of the company referred to in sub-section (2A);

(v) issuing commissions for the examination of witnesses or documents.]

⁴[(4) Without prejudice to the provisions contained in sub-sections (1), (2), (2A) and (3) and section 11B, the Board may, by an order, for reasons to be recorded in writing, in the interests of investors or securities market, take any of the following measures, either pending investigation or inquiry or on completion of such investigation or inquiry, namely:—

(a) suspend the trading of any security in a recognised stock exchange;

(b) restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities;

(c) suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position;

(d) impound and retain the proceeds or securities in respect of any transaction which is under investigation;

(e) attach, after passing of an order on an application made for approval by the Judicial Magistrate of the first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder :

Provided that only the bank account or accounts or any transaction entered therein, so far as it relates to the proceeds actually involved in violation of any of the provisions of this Act, or the rules or the regulations made thereunder shall be allowed to be attached;

(f) direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation :

Provided that the Board may, without prejudice to the provisions contained in sub-section (2) or sub-section (2A), take any of the measures specified in clause (d) or clause (e) or clause (f), in respect of any listed public company or a public company (not being intermediaries referred to in section 12) which intends to get its securities listed on any recognised stock exchange where the Board has reasonable grounds to believe that such company has been

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for “clause (i) of sub-section (2)” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

³ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

⁴ Inserted by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002.

indulging in insider trading or fraudulent and unfair trade practices relating to securities market :

Provided further that the Board shall, either before or after passing such orders, give an

opportunity of hearing to such intermediaries or persons concerned.]

¹**(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996,**

as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilized by the Board in accordance with the regulations made under this Act.]

²**[Board to regulate or prohibit issue of prospectus, offer document or advertisement soliciting money for issue of securities.**

11A. (1) Without prejudice to the provisions of the Companies Act, 1956 (1 of 1956), the Board may, for the protection of investors,—

(a) specify, by regulations—

(i) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(ii) the manner in which such matters shall be disclosed by the companies;

(b) by general or special orders—

(i) prohibit any company from issuing prospectus, any offer document, or advertisement soliciting money from the public for the issue of securities;

(ii) specify the conditions subject to which the prospectus, such offer document or advertisement, if not prohibited, may be issued.

(2) Without prejudice to the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may specify the requirements for listing and transfer of securities and other matters incidental thereto.]

³**[Collective investment scheme.**

11AA. (1) Any scheme or arrangement which satisfies the conditions referred to in subsection

(2) ⁴[or sub-section (2A)] shall be a collective investment scheme.

⁵**[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a**

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Substituted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Earlier S.11A was inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995 for S. 11A. Prior to its substitution, S. 11A read as under:-

“11A. Matters to be disclosed by the companies.- Without Prejudice to the Provisions of the Companies Act, 1956 (1 of 1956), the board may, for the protection of investors, specify, by regulations,-

(a) the matters relating to issue of capital, transfer of securities and other matters incidental thereto; and

(b) the manner in which such matters, shall be disclosed by the companies.”

³ Inserted by SEBI (Amendment) Act 1999, w.e.f. 22-2-2000.

⁴**Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.]

(2) Any scheme or arrangement made or offered by any ¹[person] under which,—

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;

(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;

(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

²[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]

(3) Notwithstanding anything contained in sub-section (2) ³[**or sub-section (2A)**], any scheme or arrangement—

(i) made or offered by a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912) or a society being a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(iii) being a contract of insurance to which the Insurance Act, 1938 (4 of 1938), applies;

(iv) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(v) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(vi) under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vii) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(viii) under which contributions made are in the nature of subscription to a mutual fund;

⁴[(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify;]

shall not be a collective investment scheme.]

⁵[Power to issue directions.

11B. Save as otherwise provided in section 11, if after making or causing to be made an enquiry, the Board is satisfied that it is necessary,—

¹ **Substituted for “company” by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

³ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.**

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(i) in the interest of investors, or orderly development of securities market; or

(ii) to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or

(iii) to secure the proper management of any such intermediary or person, it may issue such directions,—

(a) to any person or class of persons referred to in section 12, or associated with the securities market; or

(b) to any company in respect of matters specified in section 11A, as may be appropriate in the interests of investors in securities and the securities market.]

¹[Explanation- For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.]

²[Investigation.

11C. (1) Where the Board has reasonable ground to believe that—

(a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or

(b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Board thereunder,

it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the Board.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956 (1 of 1956), it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorised by it in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter

¹ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

² Inserted by SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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shall return the same to any intermediary or any person associated with securities market by whom or on whose behalf the books, registers, other documents and record are produced :
Provided that the Investigating Authority may call for any book, register, other document and record if they are needed again :

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with securities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with

fine, which may extend to one crore rupees, or with both, and also with a further fine which may extend to five lakh rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

¹[(8) **Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued, -**

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

¹ **Substituted for** “Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record” **by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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then, the Chairman may, after being satisfied that it is necessary to do so, authorize the Investigating Authority or any other officer of the Board (the officer so authorized in all cases being hereinafter referred to as the authorised officer), to-

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause (i), where the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorized officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation- For the purpose of this sub-clause, the expression “electronic record” shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).]

¹[(9) **The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer-**

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

¹ Substituted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 for the following:

“After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or those places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, it considers necessary for the purposes of the investigation :

Provided that the Magistrate shall not authorise seizure of books, registers, other documents and record, of any listed public company or a public company (not being the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless such company indulges in insider trading or market manipulation.”

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(b) for ensuring safe custody of any books of account or other documents or assets seized.]

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized ¹[***]:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.

Cease and desist proceedings.

11D. If the Board finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rules or regulations made thereunder, it may pass an order requiring such person to cease and desist from committing or causing such violation:

Provided that the Board shall not pass such order in respect of any listed public company or a public company (other than the intermediaries specified under section 12) which intends to get its securities listed on any recognised stock exchange unless the Board has reasonable grounds to believe that such company has indulged in insider trading or market manipulation.]

CHAPTER V

REGISTRATION CERTIFICATE

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the ²[regulations] made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was

necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

¹ The words "and inform the Magistrate of such return", omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

² Substituted for "rules" by Securities Law (Amendment) Act, 1995, w.e.f. 25-1-1995.

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¹[**Provided further** that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

(1A) No depository, ²[participant,] custodian of securities, foreign institutional investor, credit rating agency, or any other intermediary associated with the securities market as the Board may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a depository, ³[participant,] custodian of securities, foreign institutional investor or credit rating agency immediately before the commencement of the Securities Laws

(Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to buy or sell securities or otherwise deal with the securities market until such time regulations are made under clause (d) of sub-section (2) of section 30.

(1B) No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30.]

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

³ Inserted by the Depositories Act, 1996, w.r.e.f. 20-09-1995.

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¹[*Explanation-* For the removal of doubts, it is hereby declared that, for purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by the insurer.]

(2) Every application for registration shall be in such manner and on payment of such fees as may be determined by regulations.

(3) The Board may, by order, suspend or cancel a certificate of registration in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

²[CHAPTER VA

PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING

AND SUBSTANTIAL ACQUISITION OF SECURITIES OR CONTROL

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

12A. No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

¹ Inserted by the Securities and Insurance Laws (Amendment and Validation) Act, 2010, w.r.e.f 9-4-2010. Chapter VI of the Securities and Insurance Laws (Amendment and Validation) Act, 2010, reads as under:

CHAPTER VI

MISCELLANEOUS

6. Validation- Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 (4 of 1938) or section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. Repeal and savings - (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (Ord. 3 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 (2 of 1934) or the Insurance Act, 1938 (4 of 1938) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

² Chapter VA inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(d) engage in insider trading;

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognised stock exchange in contravention of the regulations made under this Act.]

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

13. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Board grants of such sums of money as that Government may think fit for being utilized for the purposes of this Act.

Fund.

14. (1) There shall be constituted a Fund to be called the Securities and Exchange Board of

India General Fund and there shall be credited thereto—

(a) all grants, fees and charges received by the Board under this Act;

¹ [* * *]

(aa) ² [* * *]

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Board;

(b) the expenses of the Board in the discharge of its functions under section 11;

(c) the expenses on objects and for purposes authorised by this Act.

¹ The word “and” omitted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

² Clause (aa) omitted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. It was inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Clause (aa) reads as under:-

“(aa) all sums realized by way of Penalties under this Act; and”.

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Accounts and audit.

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER VIA

PENALTIES AND ADJUDICATION

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Board, fails to furnish the same, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

¹ Chapters VI A and VI B containing Ss. 15A to 15J and 15K to 15Z respectively, inserted by Securities Laws (Amendment) Act, 1995 w.e.f. 25-1-1995.

² Substituted for “a penalty not exceeding one lakh and fifty thousand rupees for each such failure” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding five thousand rupees for every day during which such failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for every day during which the failure continues”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Penalty for failure by any person to enter into agreement with clients.

15B. If any person, who is registered as an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

²[Penalty for failure to redress investors’ grievances.

15C. If any listed company or any person who is registered as an intermediary, after having been called upon by the Board in writing, to redress the grievances of investors, fails to redress such grievances within the time specified by the Board, such company or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.]

Penalty for certain defaults in case of mutual funds.

15D. If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to ³[a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less];

(b) registered with the Board as a collective investment scheme, including mutual funds, for sponsoring or carrying on any investment scheme, fails to comply with the terms and conditions of certificate of registration, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(c) registered with the Board as a collective investment scheme, including mutual funds, fails to make an application for listing of its schemes as provided for in the regulations

¹ Substituted for “a penalty not exceeding five lakh rupees for every such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “If any person, who is registered as an intermediary, after having been called upon by the Board in writing to redress the grievances of investors, fails to redress such grievances, he shall be liable to a penalty not exceeding ten thousand rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding ten thousand rupees for each day during which he carries on any such collective investment scheme including mutual funds, or ten lakh rupees whichever is higher.” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding ten thousand rupees for each day during which such failure continues or ten lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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governing such listing, he shall be liable to ¹[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(d) registered as a collective investment scheme, including mutual funds, fails to despatch

unit certificates of any scheme in the manner provided in the regulation governing such despatch, he shall be liable to ²[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(e) registered as a collective investment scheme, including mutual funds, fails to refund the application monies paid by the investors within the period specified in the regulations, he shall be liable to ³[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

(f) registered as a collective investment scheme, including mutual funds, fails to invest money collected by such collective investment schemes in the manner or within the period specified in the regulations, he shall be liable to ⁴[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for failure to observe rules and regulations by an asset management company.

15E. Where any asset management company of a mutual fund registered under this Act, fails to comply with any of the regulations providing for restrictions on the activities of the asset management companies, such asset management company shall be liable to ⁵[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less].

Penalty for default in case of stock brokers.

15F. If any person, who is registered as a stock broker under this Act,—

(a) fails to issue contract notes in the form and manner specified by the stock exchange of which such broker is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that broker;

(b) fails to deliver any security or fails to make payment of the amount due to the investor in the manner within the period specified in the regulations, he shall be liable to ⁶[a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less];

¹ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is higher” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

³ Substituted for “a penalty not exceeding one thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁵ Substituted for “a penalty not exceeding five lakh rupees for each such failure”, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁶ Substituted for “a penalty not exceeding five thousand rupees for each day during which such failure continues” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(c) charges an amount of brokerage which is in excess of the brokerage specified in the regulations, he shall be liable to ¹[a penalty of one lakh rupees] or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

Penalty for insider trading.

15G. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or

(ii) communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty ²[of twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher].

Penalty for non-disclosure of acquisition of shares and takeovers.

15H. If any person, who is required under this Act or any rules or regulations made thereunder, fails to,—

(i) disclose the aggregate of his shareholding in the body corporate before he acquires any shares of that body corporate; or

(ii) make a public announcement to acquire shares at a minimum price; or

³[(iii) make a public offer by sending letter of offer to the shareholders of the concerned company; or

(iv) make payment of consideration to the shareholders who sold their shares pursuant to letter of offer,]

he shall be liable to a penalty ⁴[of twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher].

⁵[Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

¹ Substituted for “a penalty not exceeding five thousand rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁴ Substituted for “not exceeding five lakh rupees” by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002 2002

⁵ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

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Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]

Power to adjudicate.

15-I. (1) For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15F, 15G ¹[15H,

15HA and 15HB], the Board shall appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in subsection

(1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely :—

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made

as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

²**[Crediting sums realised by way of penalties to Consolidated Fund of India.]**

15JA. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.]

³**[Settlement of administrative and civil proceedings.]**

15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

¹ Substituted for “and 15H” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Inserted by the SEBI (Amendment) Act, 2002, S.19 w.e.f. 29-10-2002.

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013 (w.r.e.f. 20-04-2007)

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(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.]

CHAPTER VIB

ESTABLISHMENT, JURISDICTION, AUTHORITY AND PROCEDURE OF APPELLATE

TRIBUNAL

Establishment of Securities Appellate Tribunals.

15K. (1) The Central Government shall by notification, establish one or more Appellate Tribunals to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act ¹[or any other law for the time being in force].

(2) The Central Government shall also specify in the notification referred to in sub-section (1) the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.

²**[Composition of Securities Appellate Tribunal.]**

15L. A Securities Appellate Tribunal shall consist of a Presiding Officer and two other members, to be appointed, by notification, by the Central Government:

Provided that the Securities Appellate Tribunal, consisting of one person only, established before the commencement of the Securities and Exchange Board of India (Amendment) Act, 2002, shall continue to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force till two other Members are appointed under this section.

Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.

¹ Inserted by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for Sections 15L and 15M by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

Prior to their substitution, Section 15L and 15M read as under:-

“15-L. Composition of securities Appellate Tribunal. – A Securities Appellate Tribunal shall consist of

one person only (hereinafter referred to as the Presiding Officer of the Securities Appellate Tribunal) to be appointed, by notification, by the central Government.

15M. Qualifications for appointment as Presiding Officer of the Securities Appellate Tribunal. – A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he - (a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a tribunal for at least three years.”

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15M. ¹[(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he -

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.]

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

Provided that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.]

²[Tenure of office of Presiding Officer and other Members of Securities Appellate Tribunal.

15N. The Presiding Officer and every other Member of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as the Presiding Officer of the Securities Appellate Tribunal after he has attained the age of sixty-eight years:

Provided further that no person shall hold office as a Member of the Securities Appellate Tribunal after he has attained the age of sixty-two years.]

Salary and allowances and other terms and conditions of service of Presiding Officers.

15-O. The salary and allowances payable to and the other terms and conditions of service including pension, gratuity and other retirement benefits of the ¹[Presiding Officer and other Members] of a Securities Appellate Tribunal shall be such as may be prescribed:

¹ Substituted for sub-section (1) of Section 15M by the SEBI (Amendment) Ordinance, 2013 w.e.f. 21.01.2013. Prior to substitution, it read as under:-

“(1) A person shall not be qualified for appointment as the Presiding Officer of a Securities Appellate Tribunal unless he is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court :

Provided that the Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

² Substituted for Section 15N, by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to their substitution, Section 15N read as under:-

“15N. Term of office.- The Presiding officer of a Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.”

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Provided that neither the salary and allowances nor the other terms and conditions of service of the ²[Presiding Officer and other Members of a Securities Appellate Tribunal] shall be varied to their disadvantage after appointment.

Filling up of vacancies.

15P. If, for reason other than temporary absence, any vacancy occurs in the ³[office of the Presiding Officer or any other Member] of a Securities Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Securities Appellate Tribunal from the stage at which the vacancy is filled.

Resignation and removal.

15Q. (1) The ⁴[Presiding Officer or any other Member] of a Securities Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that ⁵[the Presiding Officer or any other Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office, until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The ⁶[Presiding Officer or any other Member] of a Securities Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court, in which the ⁷[Presiding Officer or any other Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the ⁸[Presiding Officer or any other Member].

Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings.

15R. No order of the Central Government appointing any person as the ⁹[Presiding Officer or a Member] of a Securities Appellate Tribunal shall be called in question in any manner, and no act or proceeding before a Securities Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Securities Appellate Tribunal.

¹ Substituted for "Presiding Officer of a Securities Appellate Tribunal" by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

² Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

³ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁴ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁵ Substituted for "said Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁶ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁷ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

⁸ Substituted for "aforesaid Presiding Officer", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

⁹ Substituted for "Presiding Officer", by the SEBI (Amendment) Act 2002, w.e.f. 29-10-2002.

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Staff of the Securities Appellate Tribunal.

15S. (1) The Central Government shall provide the Securities Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Securities Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the officers and employees of the Securities Appellate Tribunal shall be such as may be prescribed.

Appeal to the Securities Appellate Tribunal.

15T. ¹[(1) Save as provided in sub-section (2), any person aggrieved,—

(a) by an order of the Board made, on and after the commencement of the Securities Laws

(Second Amendment) Act, 1999, under this Act, or the rules or regulations made thereunder; or

(b) by an order made by an adjudicating officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

²[(2) *****]

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the ³[Board or the Adjudicating Officer, as the case may be,] is received by him and it shall be in such form and be accompanied by such fee as may be prescribed :

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

¹ Substituted for Sub-sec (1) & (2) by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, Sub-sections (1) & (2) were read as under:

“(1) Save as provided in sub-section (2), any person aggrieved by any order made by any Adjudicating Officer under this Act, may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Securities Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties.”

² **Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to omission,**

omission, Sub-section (2) read as under:

“(2) No appeal shall lie to the Securities Appellate Tribunal from an order made—

(a) by the Board on and after the commencement of the Securities Laws (Second Amendment) Act, 1999;

(b) by an adjudicating officer, with the consent of the parties.”

³ Substituted for “a copy of the order made by the adjudicating officer” by SEBI (Amendment) Act 1999, 1999, w.e.f. 16-12-1999.

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(5) The Securities Appellate Tribunal shall send a copy of every order made by it to the ¹[Board, the] parties to the appeal and to the concerned Adjudicating Officer.

(6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Procedure and powers of the Securities Appellate Tribunal.

15U. (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Securities Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte* ;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte* ;
- (h) any other matter which may be prescribed.

(3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860), and the Securities Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²[Right to legal representation.

15V. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

Explanation.—For the purposes of this section,—

¹ Substituted for “parties”, SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

² Substituted for S. 15V by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999. Prior to their substitution, S. 15V read as under:-

“15V. The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.”

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(a) “chartered accountant” means a chartered accountant as defined in clause (b) of subsection (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) “company secretary” means a company secretary as defined in clause (c) of subsection (1) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) “legal practitioner” means an advocate, vakil or any attorney of any High Court, and includes a pleader in practice.]

Limitation.

15W. The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

¹[Presiding Officer, Members and staff of Securities Appellate Tribunals to be public servants.

15X. The Presiding Officer, Members and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

Civil Court not to have jurisdiction.

15Y. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

²[Appeal to Supreme Court.

¹ Substituted for S. 15X by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution, it read as under: -

“15X. The Presiding Officer and other officers and employees of a Securities Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian penal Code(45 of 1860)”.

² Substituted for S.15Z by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002. Prior to its substitution , it

was read as under:-

“15Z. Appeal to High Court.- Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.”

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15Z. Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.]

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (1) Without prejudice to the foregoing provisions of this Act ¹[or the Depositories Act, 1996], the Board shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Central Government to supersede the Board.

17. (1) If at any time the Central Government is of opinion—

(a) that on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board, shall until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

¹ Substituted for “this Act” by the Depositories Act 1996, w.r.e.f. 20-9-1995.

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(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment

and in such case any person or persons who vacated their offices under clause (a) of subsection (2), shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Returns and reports.

18. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the securities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, within ¹[ninety] days after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Delegation.

19. The Board may, by general or special order in writing delegate to any member, officer of the Board or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 29) as it may deem necessary.

Appeals.

20. (1) Any person aggrieved by an order of the Board made ²], before the commencement of the Securities Laws (Second Amendment) Act, 1999,] under this Act, or the rules or regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

¹ Substituted for "sixty days" by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "an order of the Board made" by Securities Laws (Second Amendment) Act 1999, w.e.f. 16-12-1999.

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(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

¹[Bar of jurisdiction.

20A. No order passed by the Board ²[or the Adjudicating Officer] under this Act shall be appealable except as provided in ³[section 15T or] section 20 and no civil court shall have jurisdiction in respect of any matter which the Board ⁴[or the Adjudicating Officer] is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Board ⁵[or the Adjudicating Officer] by, or under, this Act.]

Savings.

21. Nothing in this Act shall exempt any person from any suit or other proceedings which might, apart from this Act, be brought against him.

Members, officers and employees of the Board to be public servants.

22. All members, officers and other employees of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Protection of action taken in good faith.

23. No suit, prosecution or other legal proceedings shall lie against the Central Government ⁶[or Board] or any officer of the Central Government or any member, officer or other employee of the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

⁷[Offences.

24. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with

¹ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Substituted for "Board" by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

³ Substituted for "Section 20", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁴ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁵ Substituted for "Board", by the SEBI (Amendment) Act 1999, w.e.f. 16-12-1999.

⁶ Inserted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

⁷ Substituted by for S. 24, Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.. Prior to its substitution S.24 read as under:

"24. Penalty.- Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

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imprisonment for a term which may extend to ¹[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ²[ten years, or with fine, which may extend to twenty-five crore rupees or with both].

³[Composition of certain offences.

24A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

Power to grant immunity.

24B. (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation:

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.]

¹ Substituted for “one year, or with fine, or with both” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² Substituted for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both” by the SEBI (Amendment) Act, 2002 w.e.f. 29-10-2002, for “three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both”.

³ Inserted by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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Exemption from tax on wealth and income.

25. Notwithstanding anything contained in the Wealth-tax Act, 1957 (27 of 1957), the Incometax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax on wealth, income, profits or gains—

(a) the Board;

(b) the existing Securities and Exchange Board from the date of its constitution to the date of establishment of the Board,

shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived.

Cognizance of offences by courts.

26. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Board ¹[* * *].

²[(2) *****]

³ Establishment of Special Courts.

26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

Offences triable by Special Courts

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be

taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

¹ The words “with the previous sanction of the Central Government” omitted by Securities Laws (Amendment) Act 1995, w.e.f. 25-1-1995.

² Omitted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013. Prior to the omission, Sub-section (2) read as under:

“(2) No court inferior to that of ²[a Court of Session] shall try any offence punishable under this

Act.”

³ Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Appeal and revision

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

Application of Code to proceedings before Special Court

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State requiring special knowledge of law.

Transitional provisions

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court, under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this Section.]

Offences by companies.

27. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: **Provided** that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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(b) “director”, in relation to a firm, means a partner in the firm.

Power to exempt.

28. ¹[***]**

²[Recovery of amounts

28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a

direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount

specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of section 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to incometax under the Income-tax Act, 1961.

Explanation 1- For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

¹ Omitted by the Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995. Prior to its omission, Section 28 read as under:

“28. *Power to exempt-* If the central government is of the opinion that it is necessary or expedient so to do in public interest, it may, by order published in the Official gazette, exempt any person or class of persons buying or selling securities or otherwise dealing with the securities market from the operation of sub-section 91) of Section 12.”

² Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013

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Explanation 2- Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3- Any reference to appeal in Chapter XVIII and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under Section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance

with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression “Recovery Officer” means

any officer of the Board who may be authorized, by general or special order in writing, to exercise the powers of a Recovery Officer.]

Power to make rules.

29. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the term of office and other conditions of service of the Chairman and the members under sub-section (1) of section 5;

(b) the additional functions that may be performed by the Board under section 11;

(c) ¹[* * *]

(d) the manner in which the accounts of the Board shall be maintained under section 15;

²[(da) the manner of inquiry under sub-section (1) of section 15-I;

(db) the salaries and allowances and other terms and conditions of service of the ³[Presiding Officers, Members] and other officers and employees of the Securities Appellate Tribunal under section 15-O and sub-section (3) of section 15S;

(dc) the procedure for the investigation of misbehaviour or incapacity of the ¹[Presiding Officers, or other Members] of the Securities Appellate Tribunal under sub-section (3) of section 15Q;

¹ Clause (c) omitted by Securities laws (Amendment) Act 1995, w.e.f. 25-1-1995. Prior to its omission, clause (c) it read as under:

“(c) the conditions subject to which registration certificate is to be issued under sub-section (1) of section 12”.

² Inserted by Securities Laws (Amendment) Act, 1995, w.e.f. 25-1-1995.

³ Substituted for “Presiding Officers” by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

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(dd) the form in which an appeal may be filed before the Securities Appellate Tribunal under section 15T and the fees payable in respect of such appeal;]

(e) the form and the manner in which returns and report to be made to the Central Government under section 18;

(f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules.

Power to make regulations.

30. (1) The Board may, ²[***] by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the times and places of meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 7 including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Board under sub-section (2) of section 9;

³[(c) the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;

⁴[(ca) the utilization of the amount credited under sub-section (5) of section 11;

(cb) the fulfillment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorized officer for search or seizure under sub-section (9) of section 11C;]

(d) the conditions subject to which certificate of registration is to be issued, the amount of

fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12.]

5[(da) the terms determined by the Board for settlement of proceedings under subsection (2) and the procedure for conducting of settlement proceedings under subsection (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.]

Rules and regulations to be laid before Parliament.

¹ Substituted for "Presiding Officers", by the SEBI (Amendment) Act, 2002, w.e.f. 29-10-2002.

² The words "with the previous approval of the Central Government" omitted by Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995.

³ Substituted for the existing clause (c) by the Securities Laws (Amendment) Act 1995 w.e.f. 25-1-1995. Prior to substitution this clause read as under:

"(c) the amount of fee to be paid for registration certificate and manner of suspension or cancellation of registration certificate under sub-section (2) and (3) of section 12."

⁴ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

⁵ **Inserted by The Securities Laws (Amendment) Ordinance, 2013 w.e.f. 18-07-2013**

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31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Amendment of certain enactments.

33. *[Repealed by Repealing & Amending Act, 2001.]*

Power to remove difficulties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

35. (1) The Securities and Exchange Board of India Ordinance, 1992 (Ord. 5 of 1992), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 33]

AMENDMENT OF CERTAIN ENACTMENTS

[Repealed by Repealing & Amending Act, 2001]